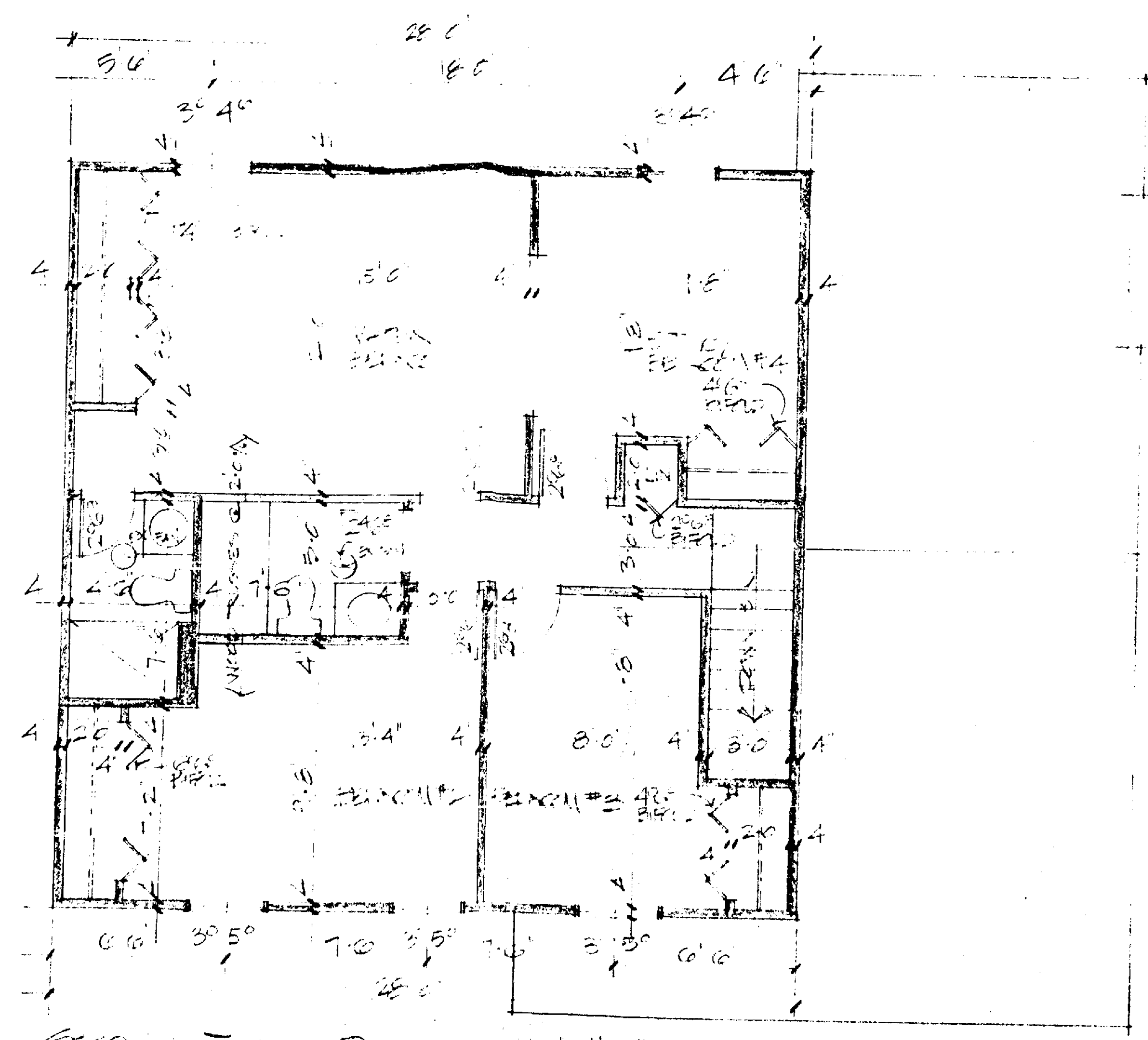


L-SE

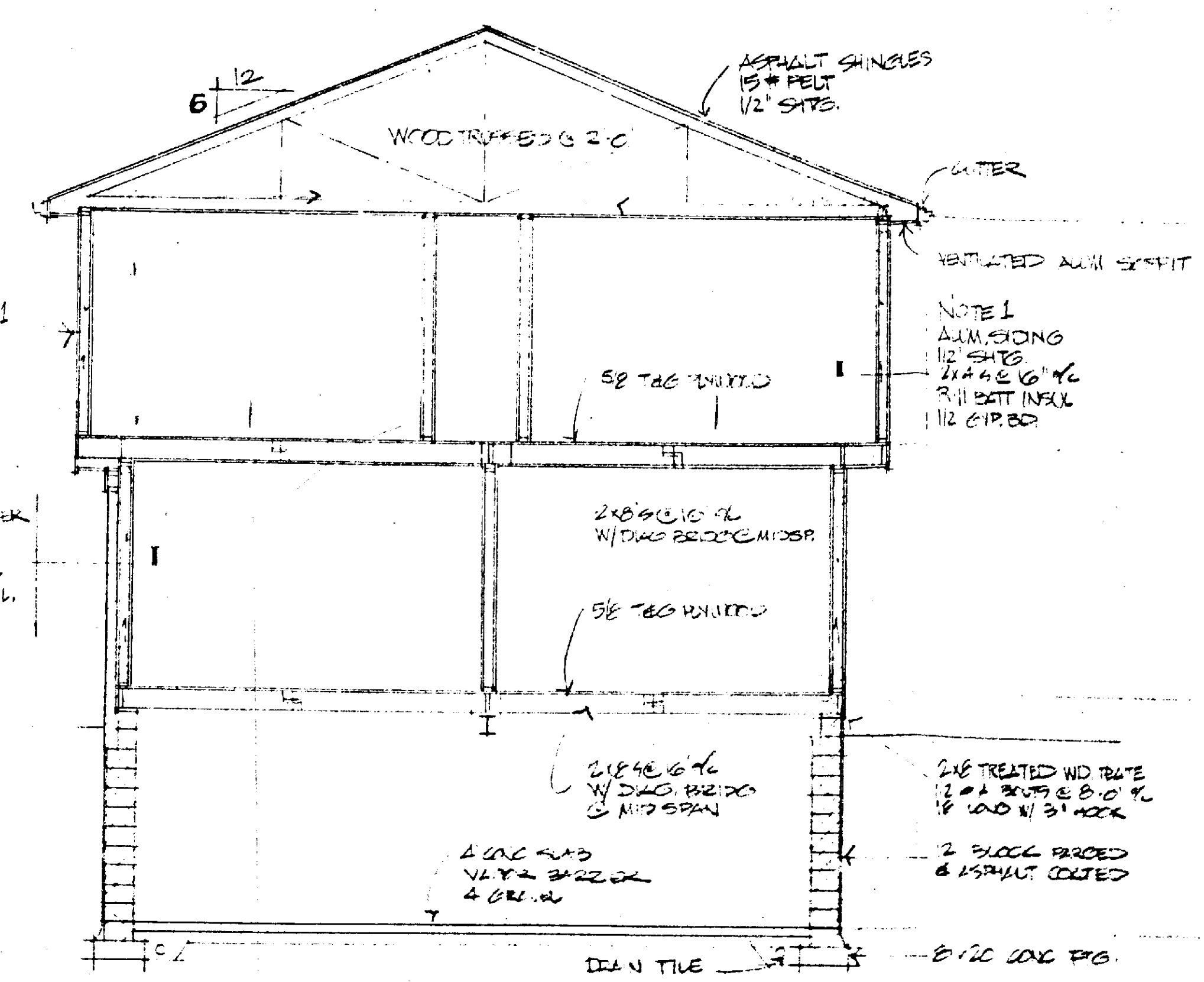
PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA

| REVISIONS | DATE | SCALE | LOCATION | SHEET |
|------------------------|------------|-----------|----------|-------|
| BY Moss, Inc. | 7-70 | 1" = 200' | BELMONT | N. W. |
| DATE OF PHOTOGRAPHY | APRIL 1953 | | | 2-G |

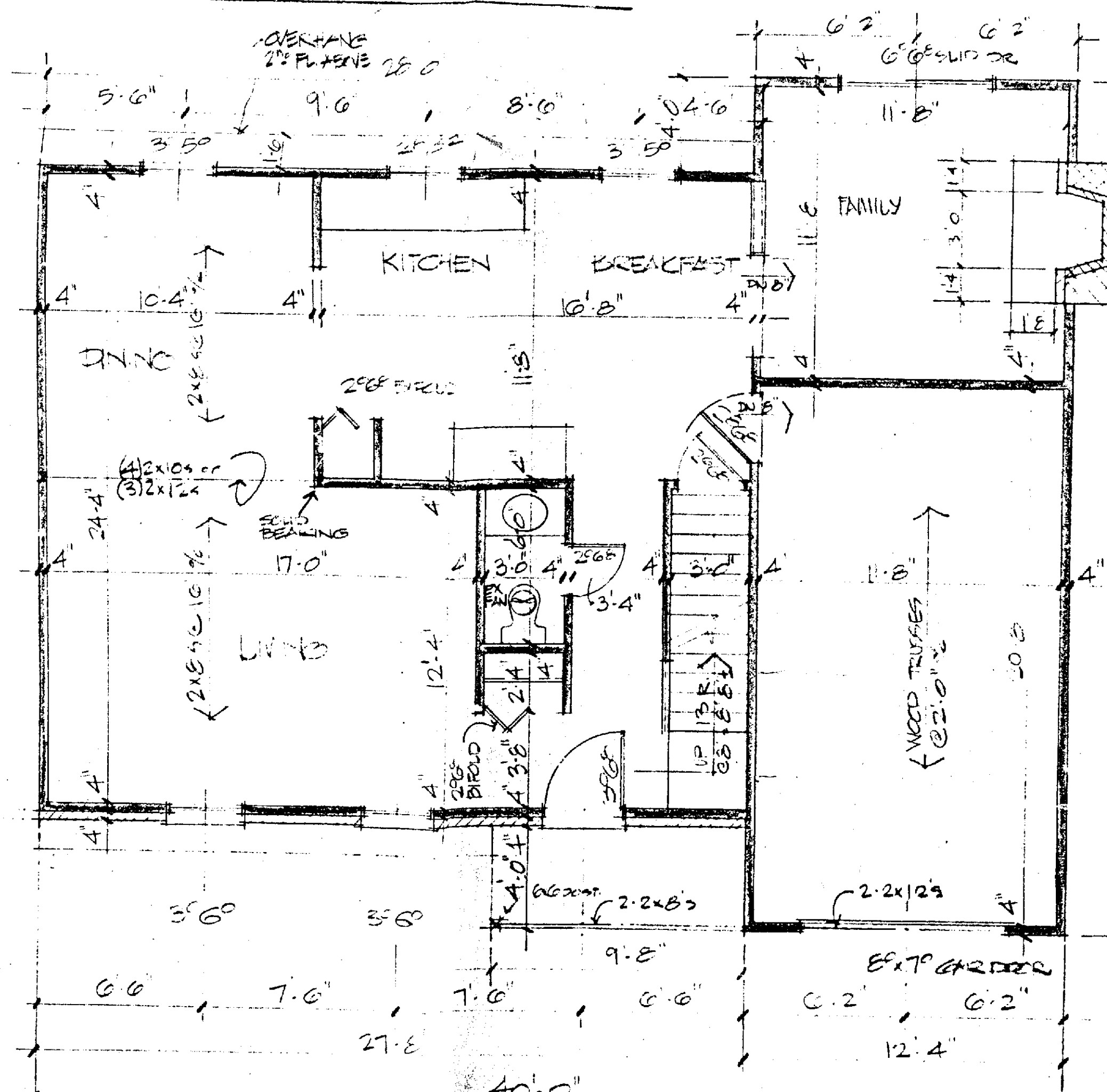
Topography Compiled By Photogrammetric Method
Aerial Service Corporation, Philadelphia, PA



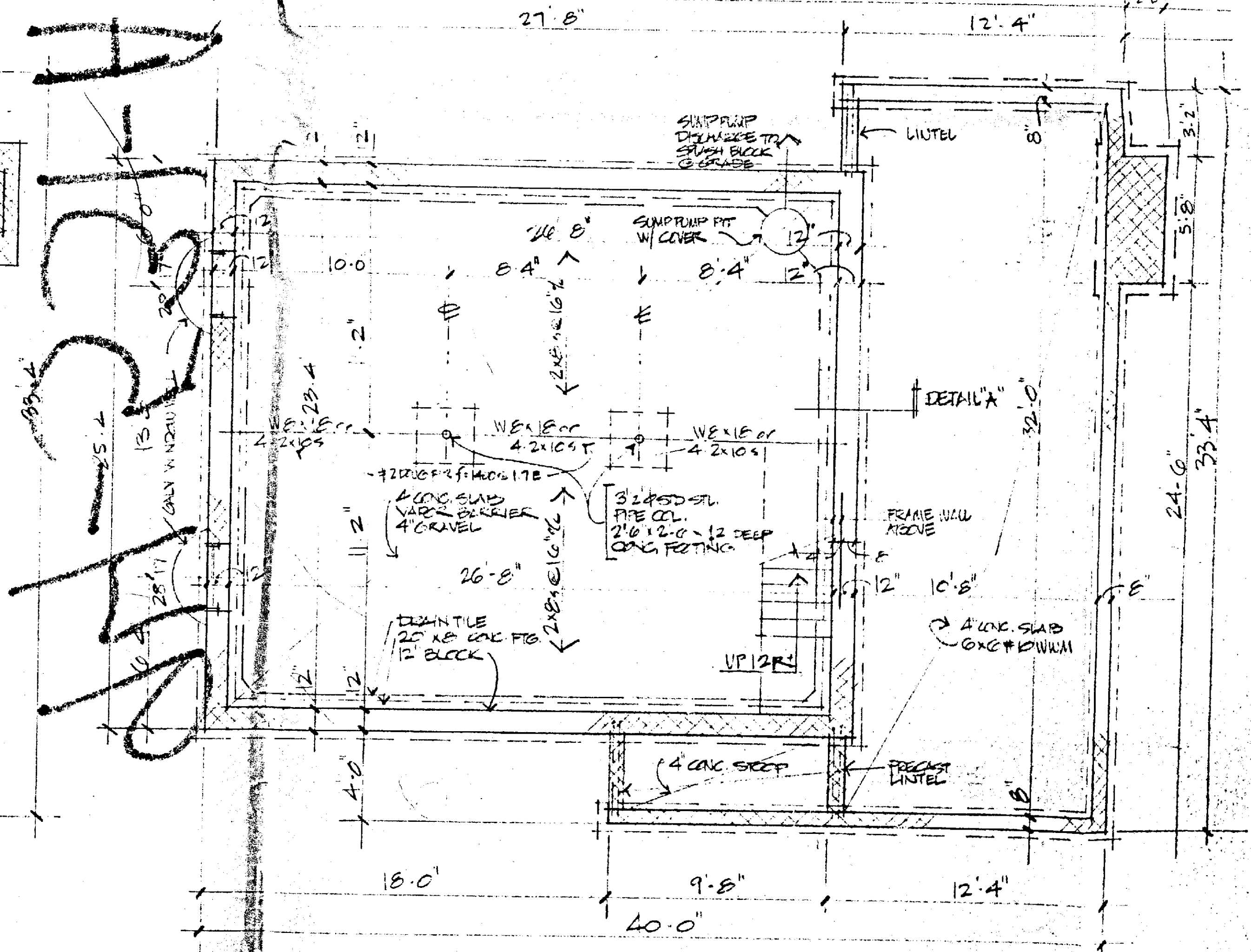
SECOND FLOOR PLAN SCALE 1/4" = 1'-0"



CROSS SECTION SCALE 1/4" = 1'-0"

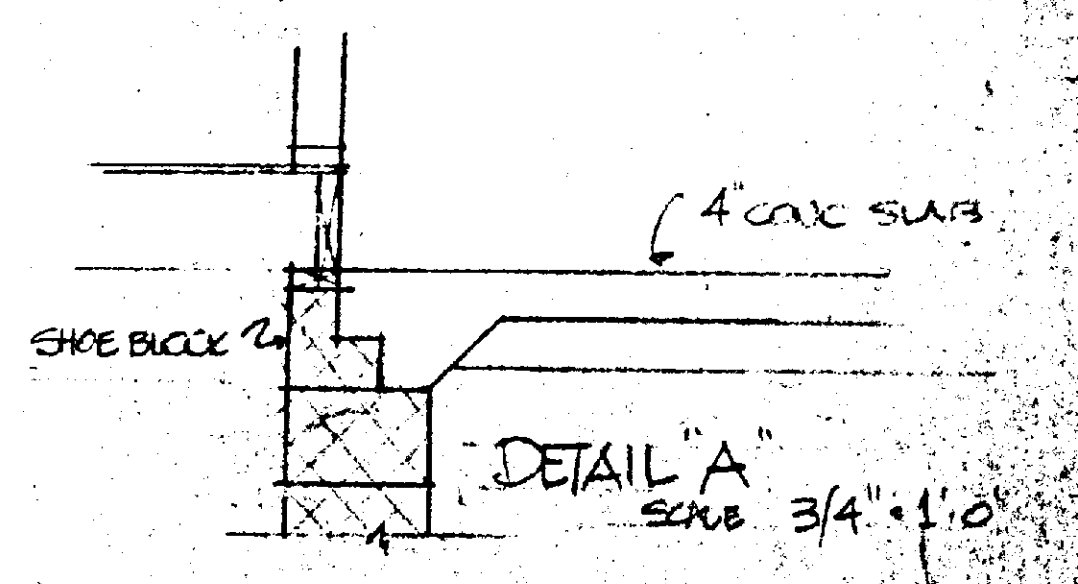


FIRST FLOOR PLAN SCALE 1/4" = 1'-0"



BASEMENT & FOUNDATION PLAN SCALE 1/4" = 1'-0"

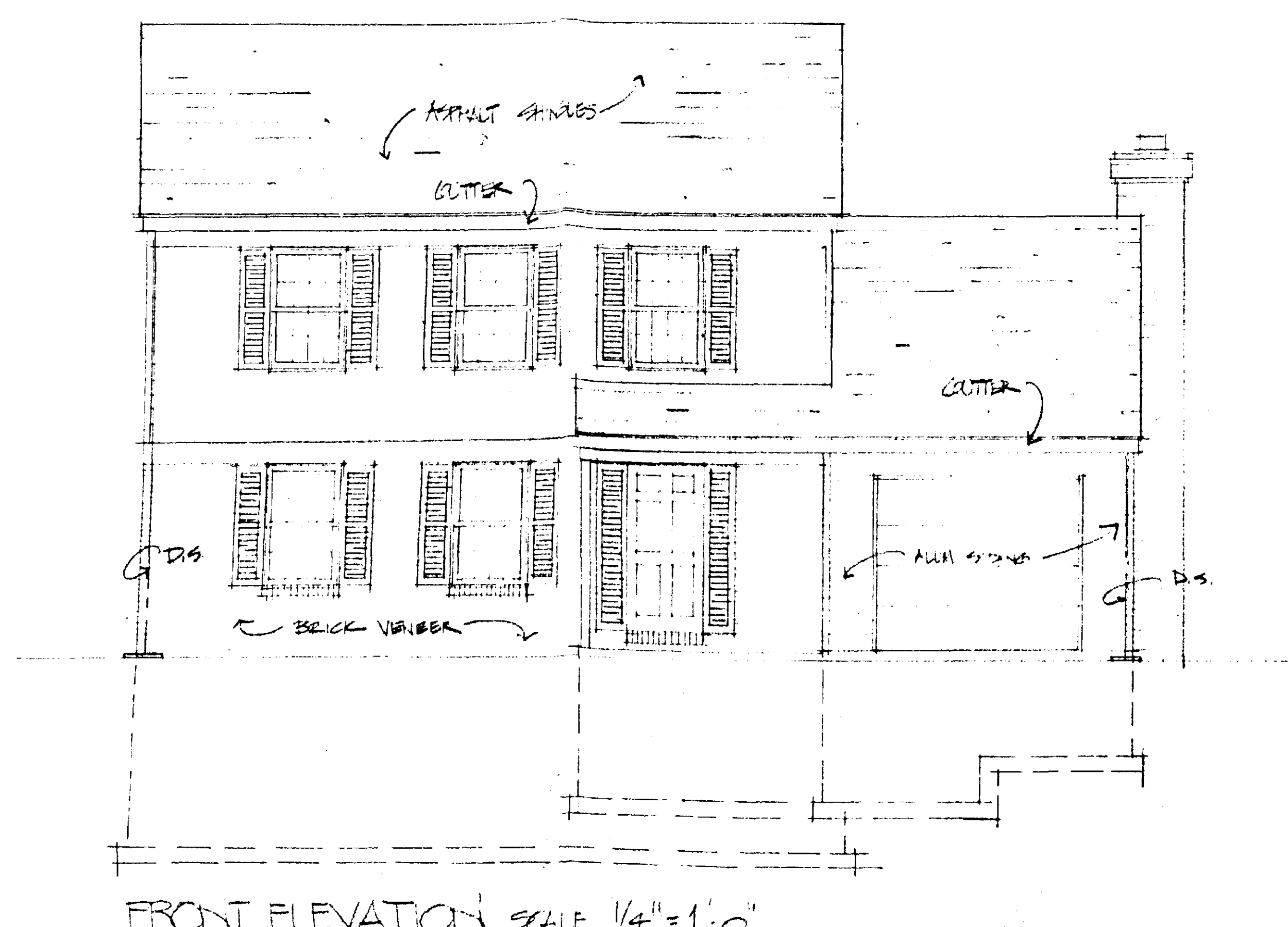
- GENERAL NOTES:**
1. STRUCTURAL LUMBER SHALL BE NO. 2 HEAVY-FIR, F-150, E-1.4, E, UNLESS NOTED OTHERWISE.
 2. ALL WOOD TRUSSES SHALL BEAR THE STAMP OF THE TRUSS RATE INSTITUTE.
 3. INSULATION:
 - A. FRAME WALLS - R-11.
 - B. ATTIC - R-30.



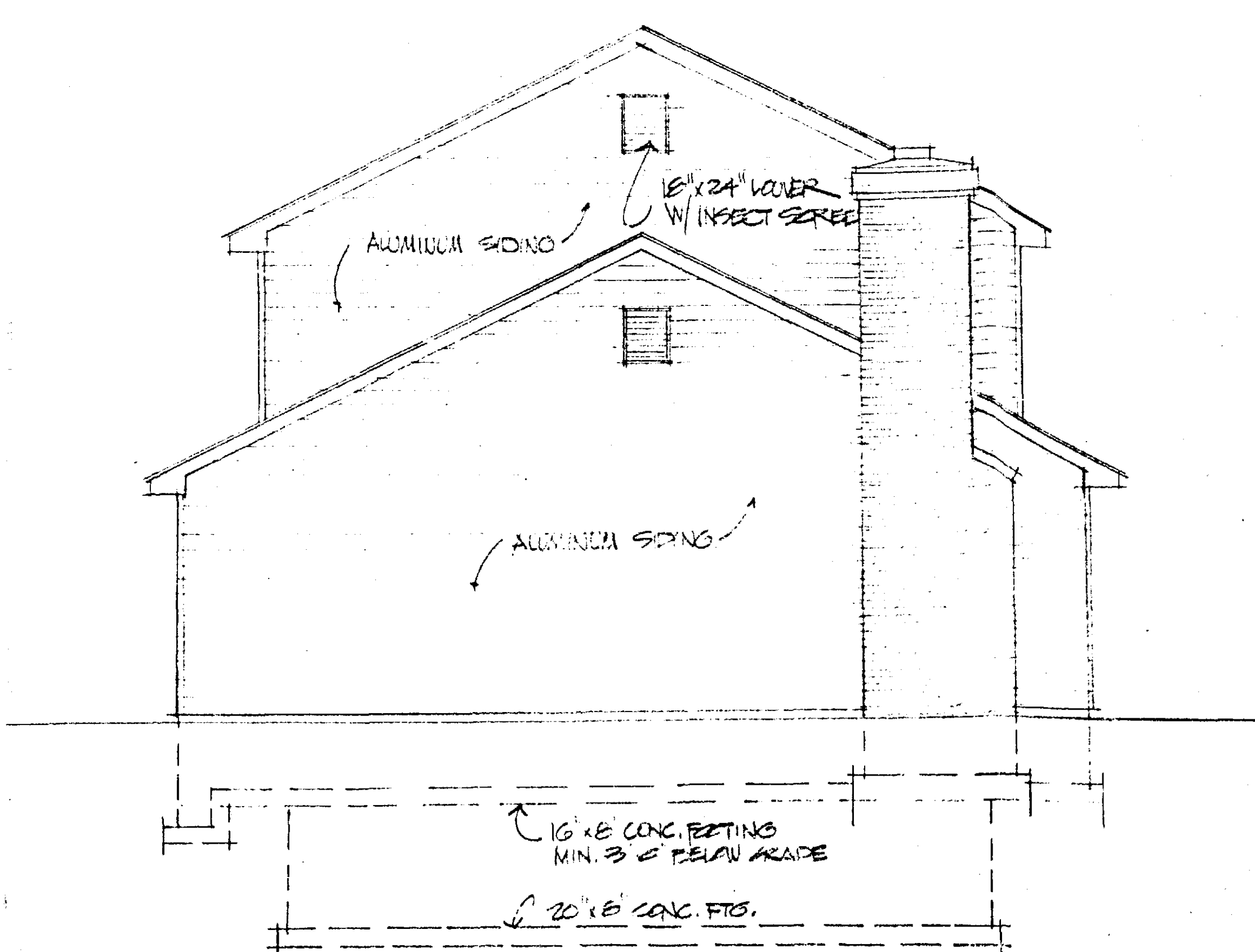
REVISED: MARCH 26, 1984

JOHN J. STANTY, JR.
ARCHITECT

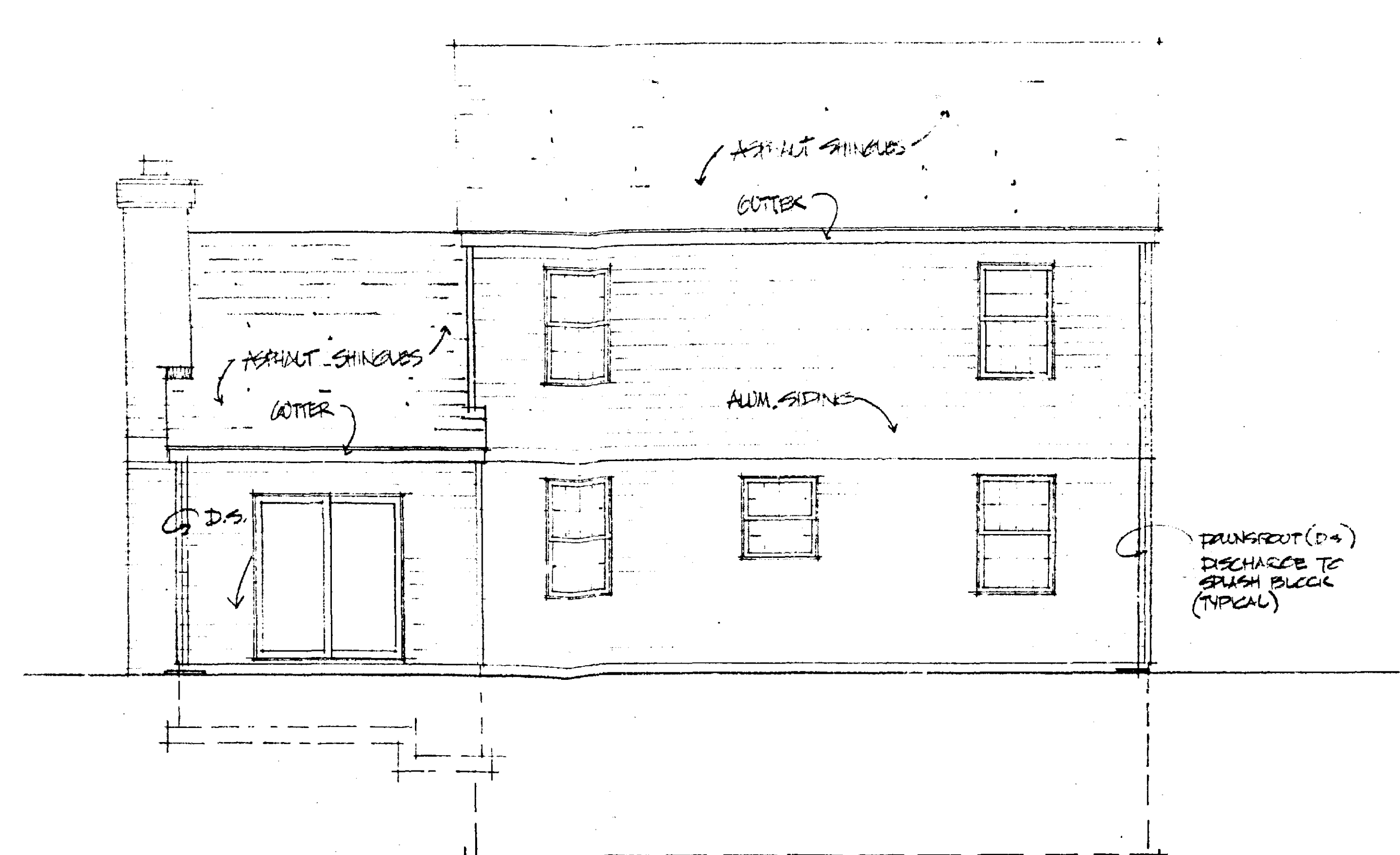
1000 S. 10th St.
Tulsa, Oklahoma 74106
Tel. 301-201-1111



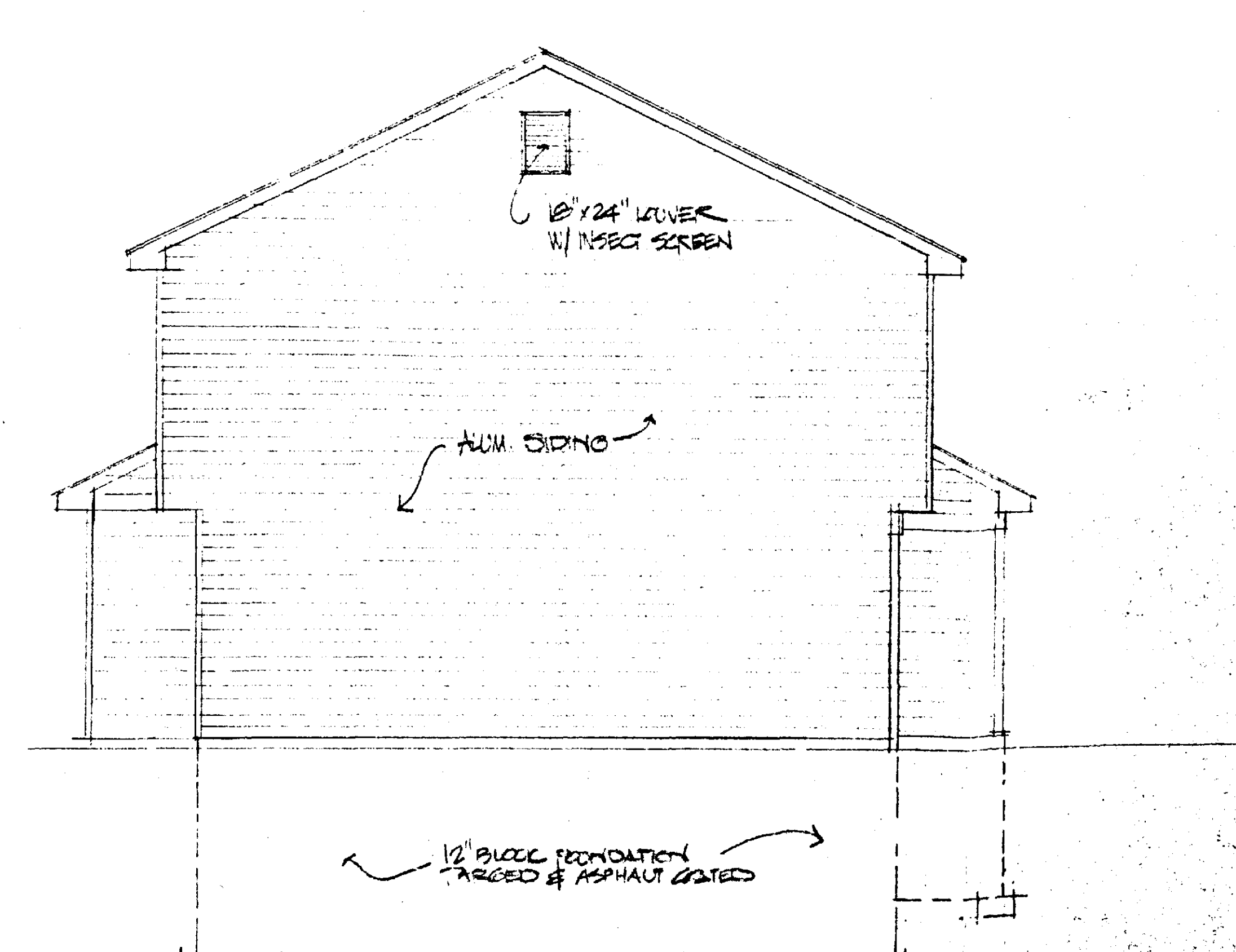
FRONT ELEVATION SCALE 1/4"=1'-0"



RIGHT SIDE ELEVATION

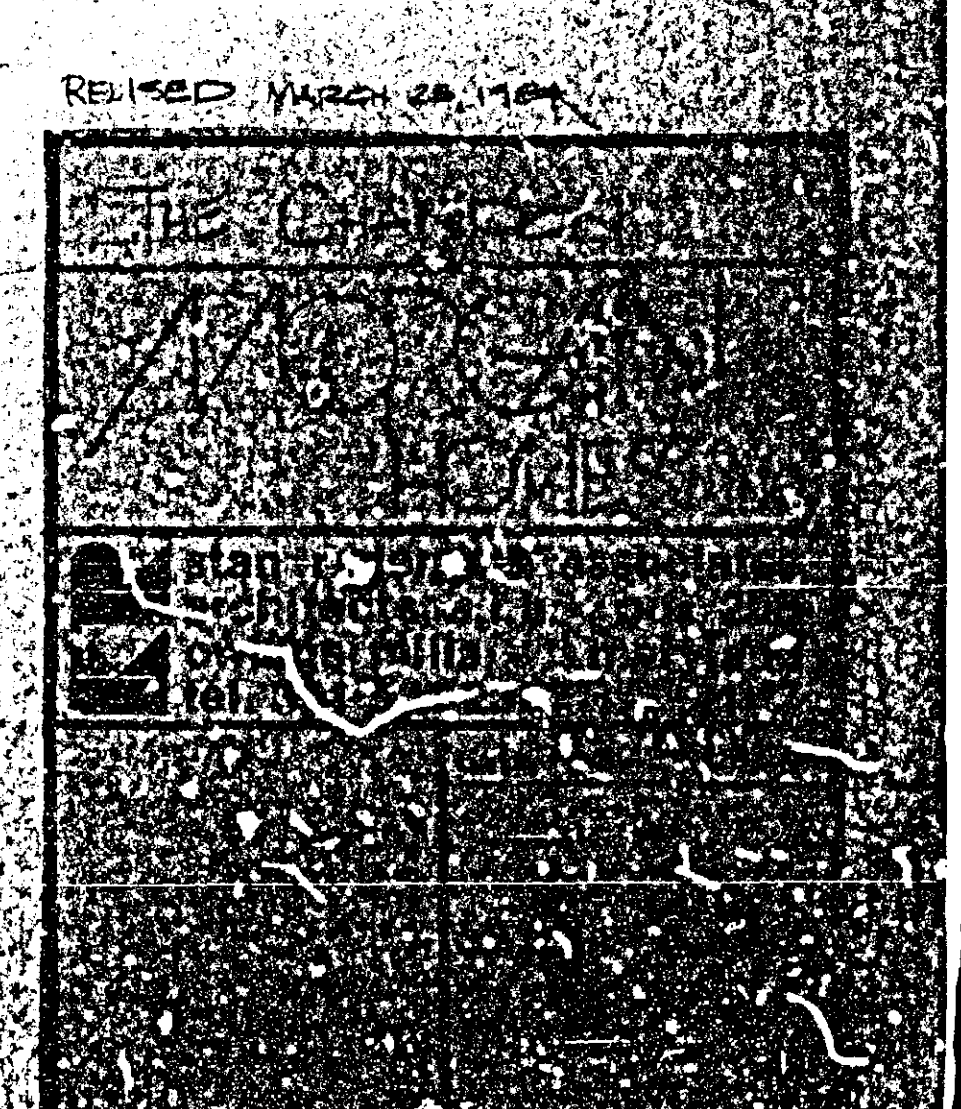


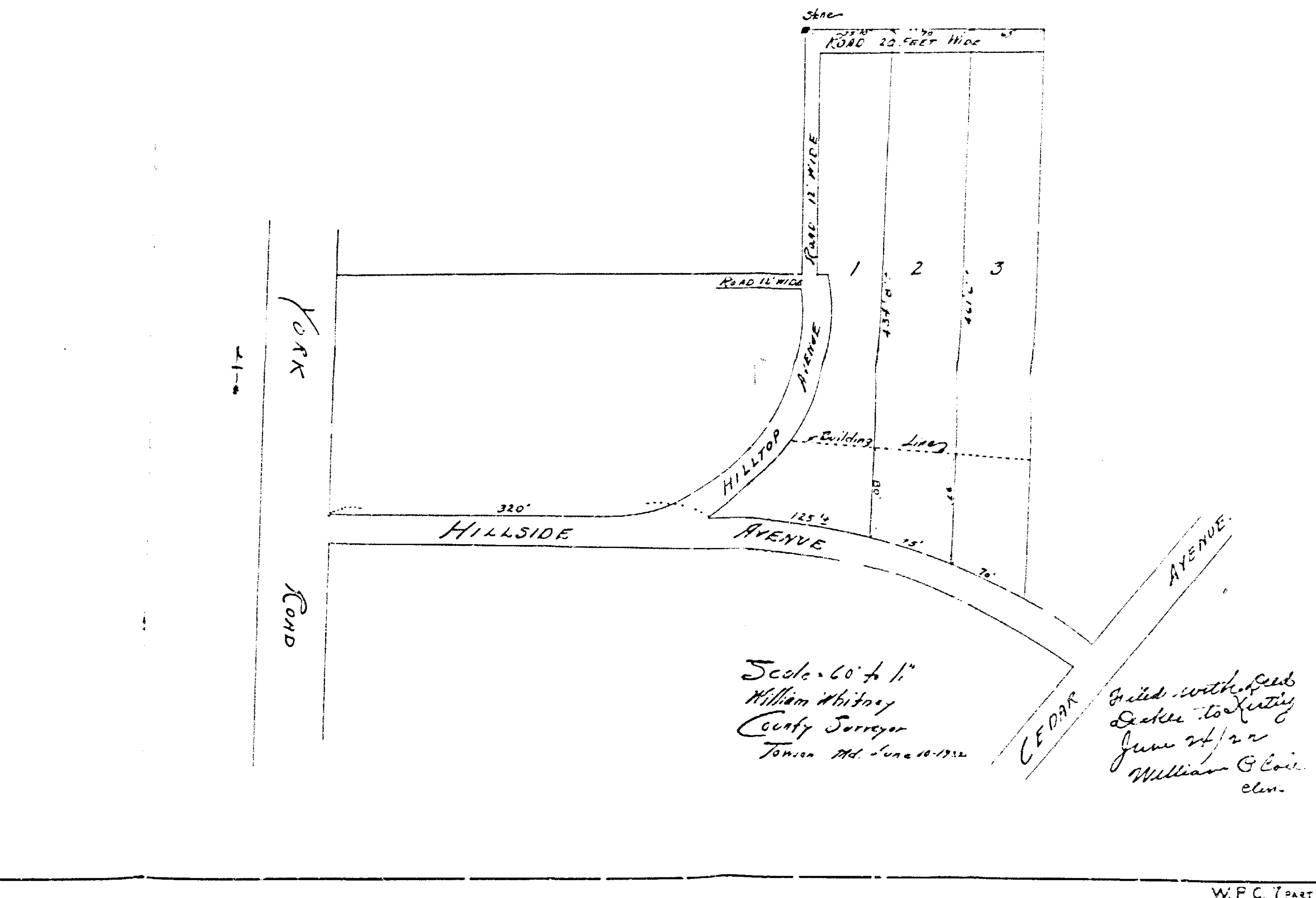
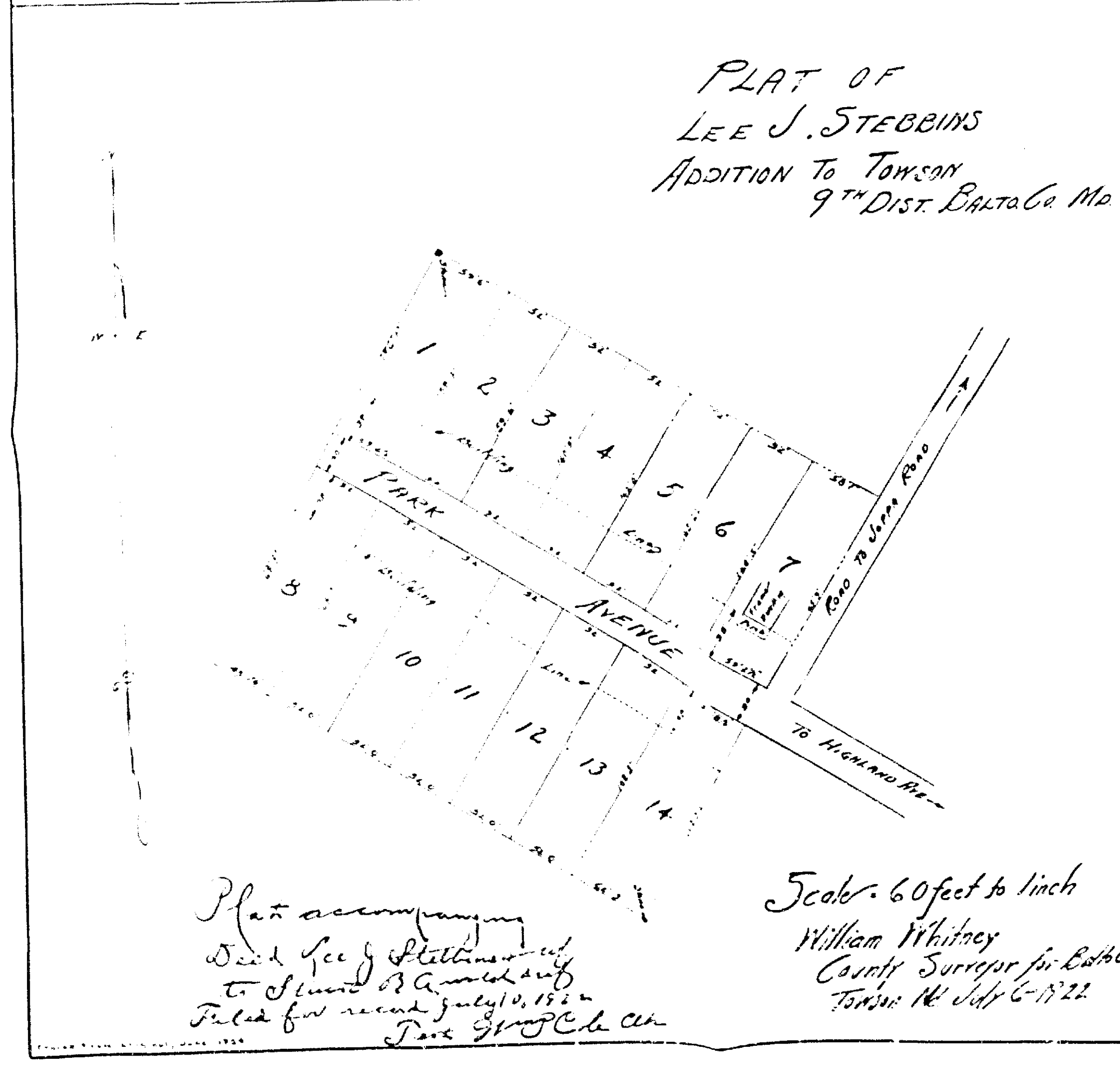
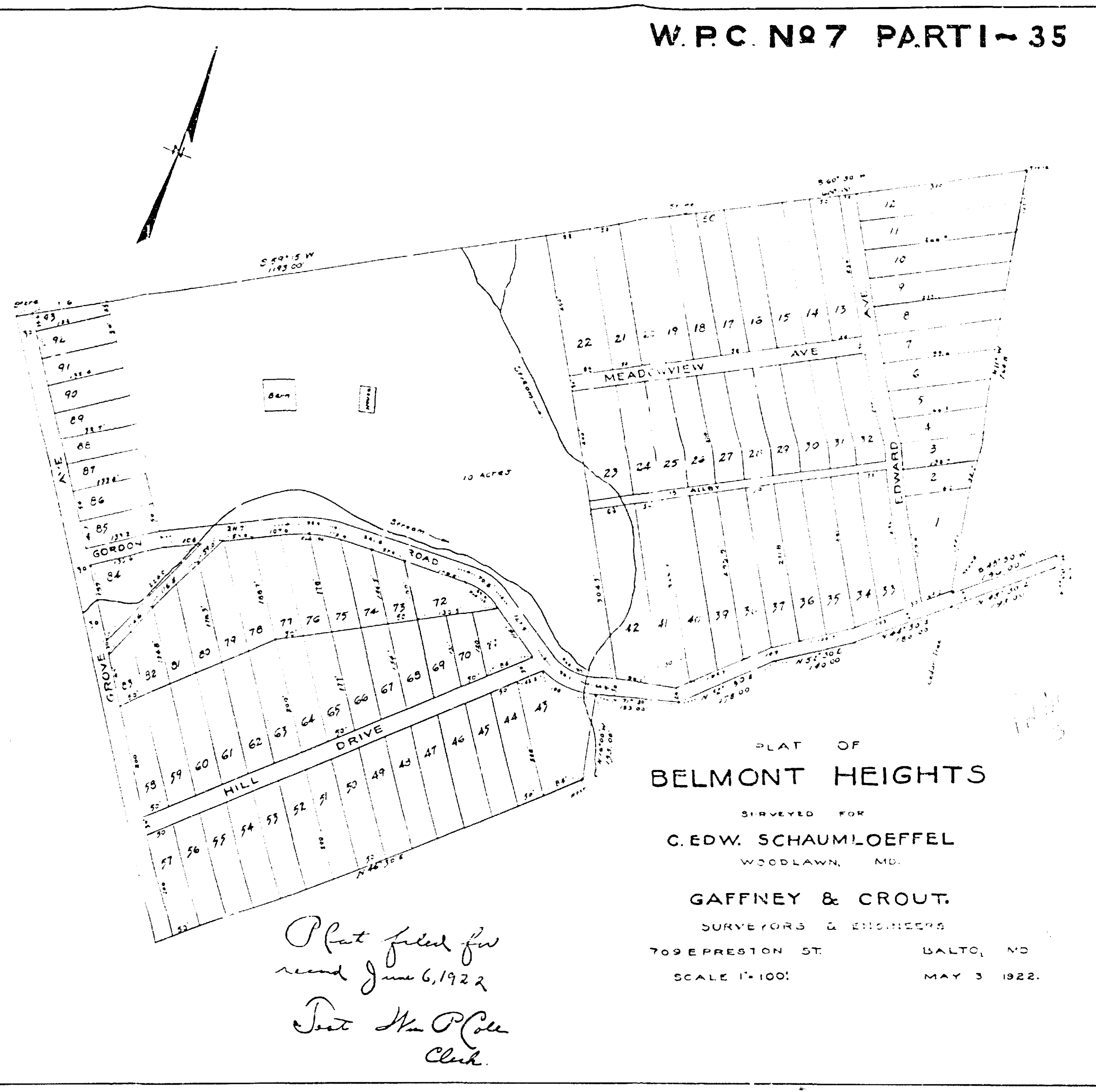
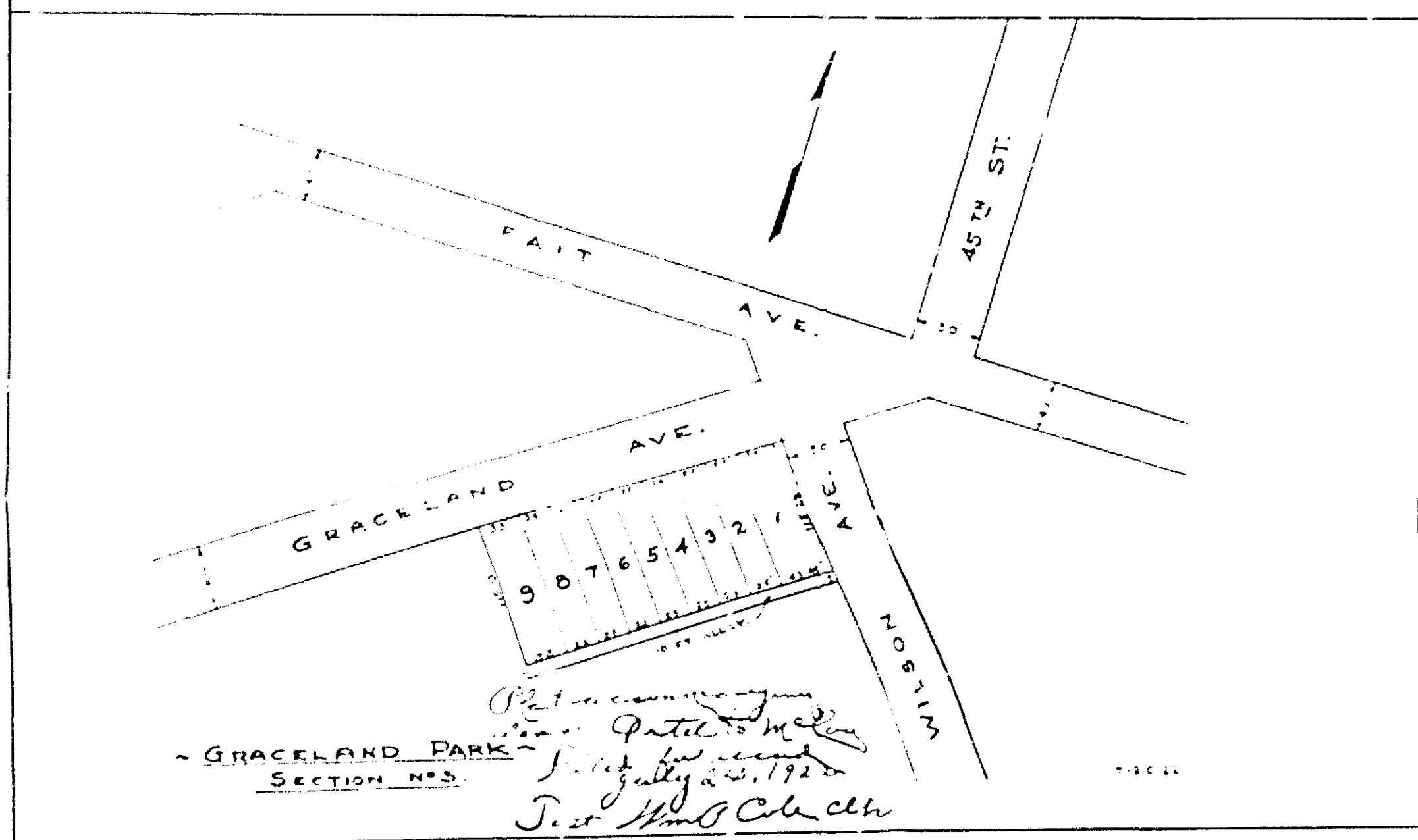
REAR ELEVATION SCALE 1/4"=1'-0"



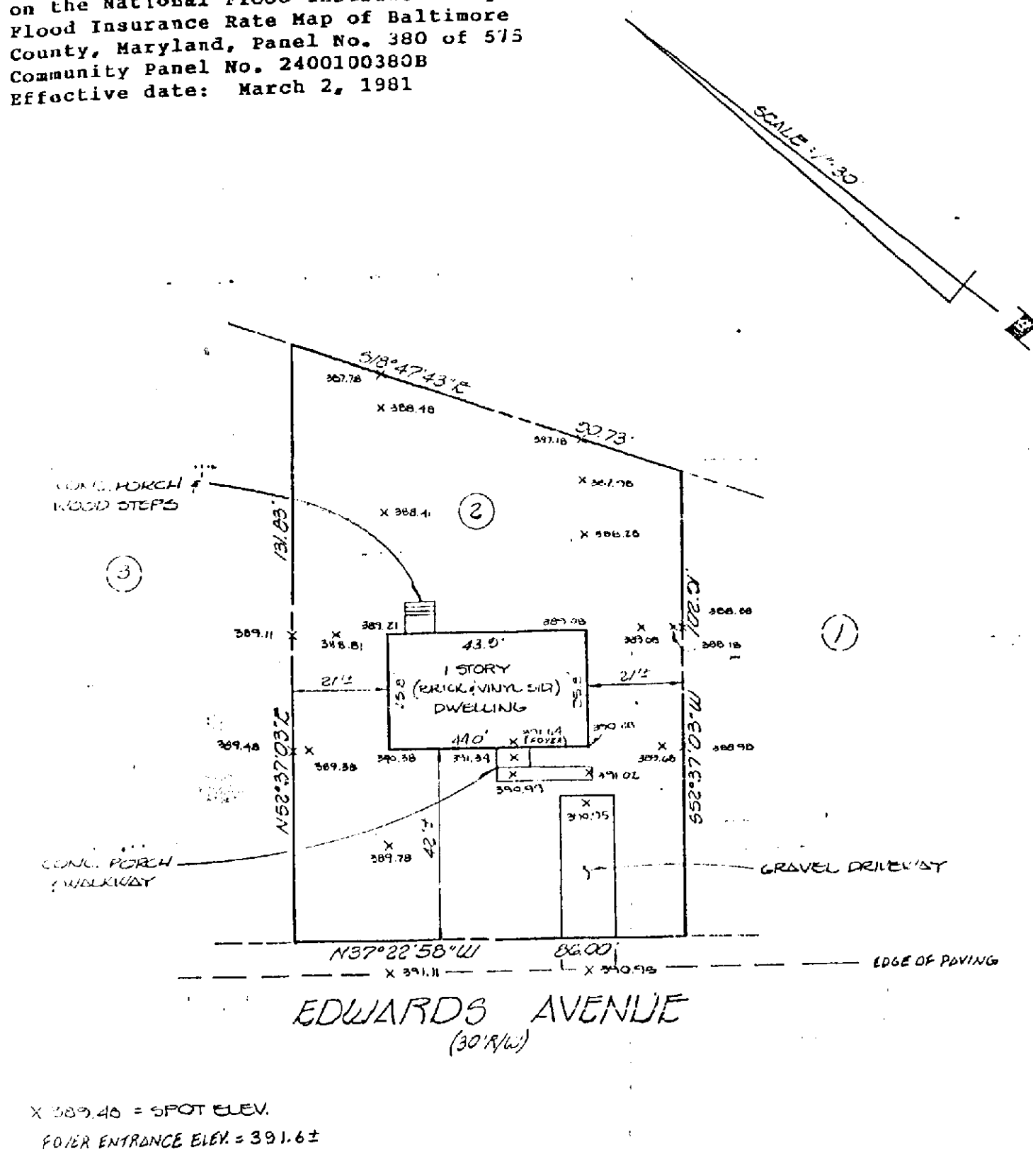
LEFT SIDE ELEVATION

Plot No 4





Subject property is shown in Zone C on the National Flood Insurance Program Flood Insurance Rate Map of Baltimore County, Maryland, Panel No. 380 of 575 Community Panel No. 7400100908 Effective date: March 2, 1981

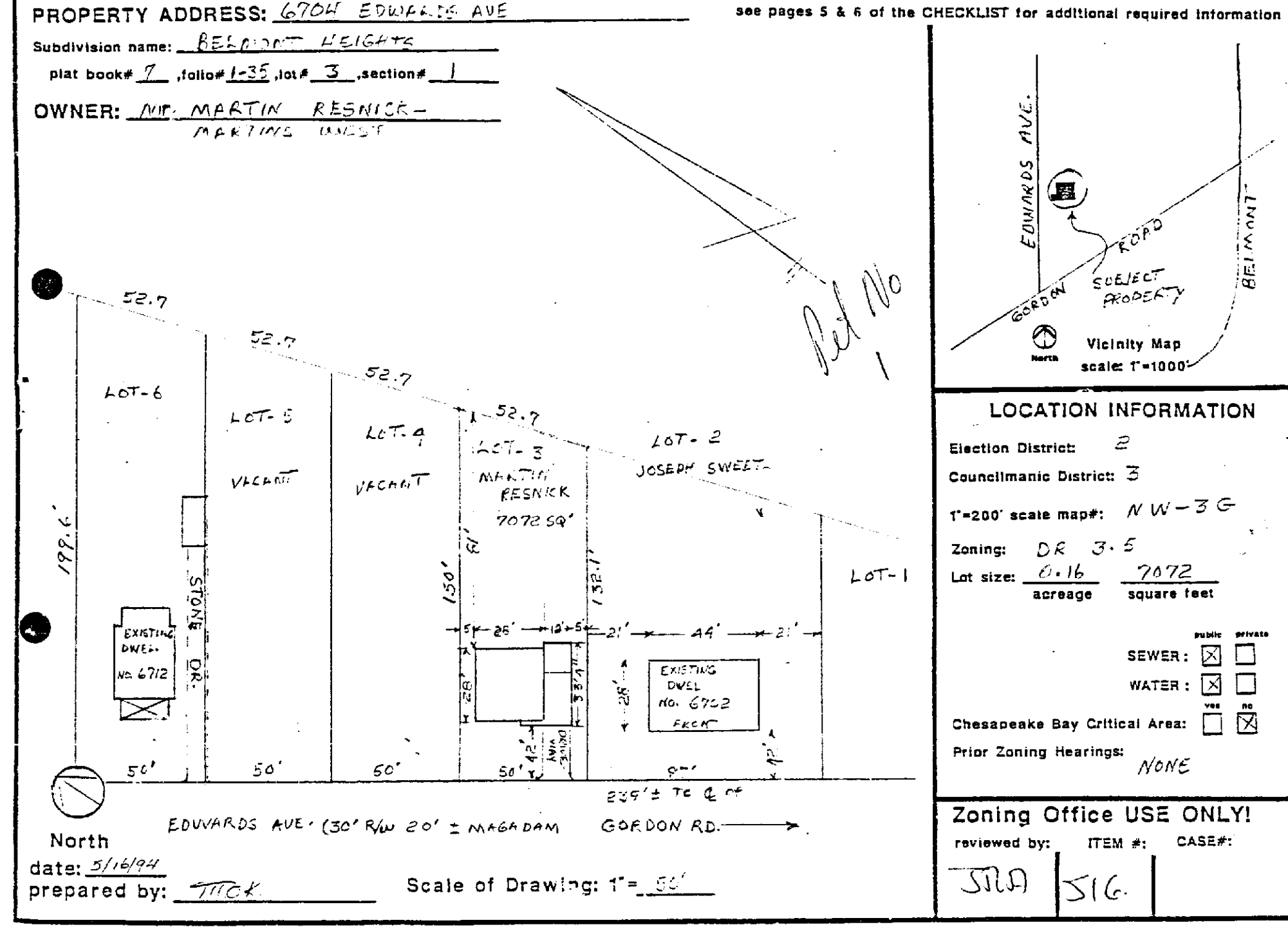


This is to certify that I have surveyed the property known as LOT 3 EDWARDS AVENUE RECORDED AS DEED REF. 100-1-025 AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND for the purpose of locating the improvements thereon, and the improvements are located as shown on this plat.

Signed this 22nd day of June 1979

FISHER, COLLINS & CARTER, INC.
CIVIL ENGINEERS, SURVEYORS & LAND SURVEYORS
100 BALTIMORE AVENUE, SUITE 200
BALTIMORE, MD 21202
(410) 524-1000

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing



REAL ESTATE TITLE COMPANY, INCORPORATED
Kryer Building
Baltimore, MD
LE 10100 9-3212

App. No. 100892
Lawyer's Title
Insurance Corporation
Richmond, Virginia

This Deed, Made this ninth **day of** September
In the year one thousand nine hundred and seventy-six by and between
ANNE C. MULLINEAUX BARRY, of Baltimore County, State of Maryland, of the first part; and
MARTIN'S, INC., a body corporate of the State of Maryland, of the second part.

WITNESSETH that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part:

do hereby grant and convey unto the said party of the second part, its successors

ALL and assigns, in fee-simple, all that lot of ground situate, lying and being in Baltimore County, State of Maryland and described as follows, that is to say

BEGINNING for the same on the northeasternmost side of Edward Avenue in the First Election District of Baltimore County, being Lot Number Three, (No. 3) as laid down on the Plat of "RELAND HEIGHTS", said plat being recorded among the Land Records of Baltimore County in Plat Book Liber W.P.C. No. 7, folio 25; said lot fronting 50 feet on the northeasternmost side of Edward Avenue with a parallel depth easterly of 132.7 feet on the southernmost side line and depth of 149.45 feet on the northernmost side line.

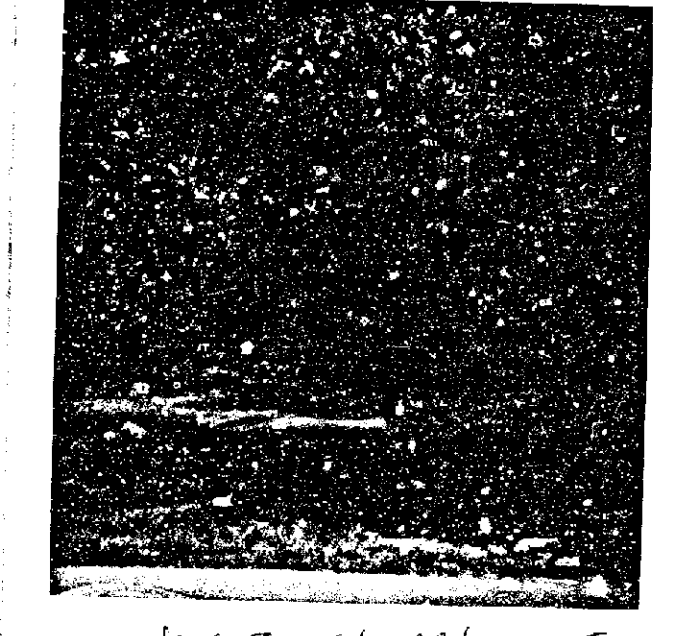
BEING the same lot of ground described in a Deed dated July 12, 1972 and recorded among the Land Records of Baltimore County in Liber S.H.K. Jr. No. 5286, folio 325 from Emily Cecelia Mullineaux unto the within party of the first part, Grantor herein.



House built on a 50' fifty foot lot located in the same block # 6716 EDWARDS AVE



House next door - South 22nd 6702 Edwards



Lot # 3 Edwards, photo taken from front



Lot # 3 Taken from North of lot.

MARTIN'S INC.
6821 Dogwood Road
Baltimore, MD 21244

To Whom It May Concern,

Please be advised that we are currently planning to construct a single family residence on Lot # 3 Edwards Ave.

I am requesting that you, as a member of the Community, please sign below if you have no objections.

Thank You

Signature _____ Address _____

L. A. Martin 6701 EDWARDS AVE

Oliver Zimmerman 6712 Edwards Ave

Mary P. Ross 6711 Edwards Ave

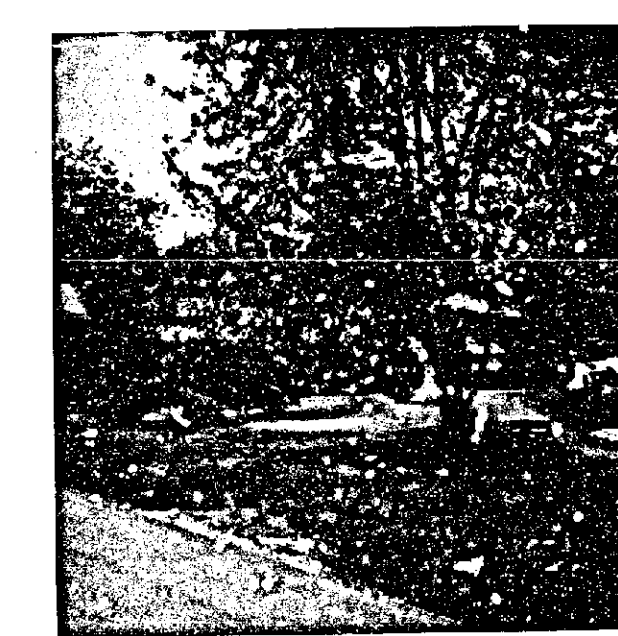
Joseph Sweet 6712 Edwards Ave

Plat No 6

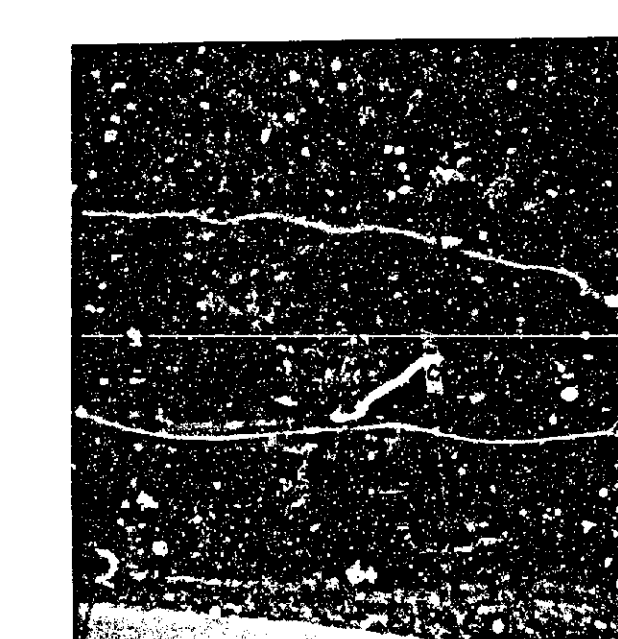
SIG.



House next door 6712 Edwards



Lot # 3, 4, 5. Plus house next door - North located on a 50' foot lot - 6712 Edwards



Lot # 3 Edwards MARTIN'S INC. own-ship

Plat 51B

SIG.

Petitioner's Exhibit 7A+7B



Zoning Description - 3 copies

Three copies are required. Copies of plans must be used in place of this description. Use this fill-in form provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR LOT 3 EDWARDS AVE. BELMONT HEIGHTS SUBDIV.
(address)
Election District 2 Councilmanic District 3

Beginning at a point on the EAST side of EDWARDS
(north, south, east or west)
AVENUE which is (30') FEET
(street on which property fronts)
wide at a distance of 245.6 of the
(number of feet) (north, south, east or west)
Centerline of the nearest improved intersecting street: GORDON ROAD
(name of street)
which is 30' FEET wide. *Being Lot # 3
(number of feet of right-of-way width)
Block --- Section --- in the subdivision of
BELMONT HEIGHTS SUBDIVISION as recorded in Baltimore County Plat
(name of subdivision)
Book # 7 Folio # 1-35 containing
7072
(square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber --- Folio ---" and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87° 12' 13" E. 321.1 ft., S.18° 27' 03" E. 87.2 ft., S.62° 19' 00" W. 318 ft., and N.08° 15' 22" W. 80 ft. to the place of beginning.

516

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 3rd Date of Posting: 7/19/94
Posted for: Martin's, Inc.
Petitioner: Martin's, Inc.
Location of property: 6704 Edwards Ave., Bk.
Location of Sign: Lawrence E. Schmidt, Zoning Commissioner
Remarks: ---
Posted by: --- Date of return: 7/21/94
Number of Signs: ---

CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/15, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/14, 1994.

THE JEFFERSONIAN,
A. H. JENKINSON
LEGAL AD. - TOWSON

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 94-531-A (Item 516)
6704 Edwards Ave., 245.6 ft. N. of Gordon Road
3rd Election District - 2nd Councilmanic District
Petitioner(s): Martin's, Inc.
Hearing: TUESDAY, AUGUST 2, 1994 at 9:00 a.m. in Rm. 118, Old Courthouse.
Variance: to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.
LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are held in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204. (2) For information concerning the file and/or hearing, please call 887-3353. 7/17 July 14.

recept
94-531-A
Account: R-001-6150
Number: 516
Date: 6-30-94
Mr. Martin Resnick/Martin's, Inc.
c/o Mr. Morgan Kelly
9254 Broken Timber Way
OIC: Reg. Var. 50
CSC: Sign. 33
CTOL: 185

0141WJ056A1CHRC \$85.00
54 C0097194N07-01-94
Please Make Checks Payable To: Baltimore County

Cashier Validation

PETITION PROCESSING FLAG

Item Number: 516
Planner: JRA
Date Filed: 6-28-94

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney
The following information is missing:
Actual address of property
Zoning
Acreage
Plats (need 12, only --- submitted)
200 scale zoning map with property outlined
Election district
Councilmanic district
BCZR section information and/or wording
Hardship/practical difficulty information
Owner's signature (need minimum 1 original signature) and/or address and/or telephone number
Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address
Signature (need minimum 1 original signature) and/or title of person signing for legal owner
Power of attorney or authorization for person signing for legal owner and/or contract purchaser
Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
Notary Public's section is incomplete and/or incorrect and/or commission has expired

PET-FLAG (TXTSOPH)
11/17/93

TO: PUBLISHER PUBLISHING COMPANY
July 14, 1994 Issue - Jeffersonian

Please forward billing to:
Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204
321-9500

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-531-A (Item 516)
5701 Edwards Lane
6/5 Edwards Avenue, 243.5 feet N of c/l Gordon Road
3rd Election District - 2nd Councilmanic District
Petitioner(s): Martin's, Inc.
HEARING: TUESDAY, AUGUST 2, 1994 at 9:00 a.m. in Rm. 118 Old Courthouse

Variance to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Variance to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.

Arnold Jablon
Director

cc: Martin Resnick
Morgan C. Kelly
Julius W. Lichter, Esquire

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

7/19/94 - CORRECTED COPY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-531-A (Item 516)
6704 Edwards Avenue, 243.5 feet N of c/l Gordon Road
3rd Election District - 2nd Councilmanic District
Petitioner(s): Martin's, Inc.
HEARING: TUESDAY, AUGUST 2, 1994 at 9:00 a.m. in Rm. 118 Old Courthouse

Variance to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.

Arnold Jablon
Director

cc: Martin Resnick
Morgan C. Kelly
Julius W. Lichter, Esquire
Joseph G. Suddert

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 22, 1994

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-531-A, Item No. 516
Petition for Variance
Petitioner: Martin's, Inc.

Dear Mr. Lichter:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 29, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

IN RE: PETITION FOR VARIANCE
E/S Edwards Avenue, 243.5' N
of the c/l of Gordon Road
(Lot 3 of Belmont Heights)
3rd Election District
2nd Councilmanic District
Martin Resnick/Martin's, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-531-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as Lot 3 of Belmont Heights, also known as 6704 Edwards Avenue, located in the Belmont Heights subdivision in western Baltimore County. The Petition was filed by the owners of the property, Martin Resnick/Martin's Inc., through their attorney, Julius W. Lichter, Esquire. The Petitioners seek relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 5 feet each in lieu of the minimum required 10 feet and a total side yard sum of 10 feet in lieu of the required 25 feet, a lot width of 50 feet in lieu of the required 70 feet, and a total area of 7,072 sq.ft. in lieu of the minimum required 10,000 sq.ft. for a proposed dwelling. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Morgan C. Kelly, Petitioner's Builder, and Julius W. Lichter, Esquire, attorney for the Petitioner. Appearing in opposition to the request were several residents of the surrounding community. These included Joseph Sweet who resides immediately next door to the subject property, Alice and Diane Zimmerman who reside on the other side of the property, and Mary Ross and Gus R. Bond, nearby property owners.

Testimony and evidence offered revealed that the subject property consists of 0.16 acres, more or less, zoned D.R. 3.5 and is presently unimproved. The Petitioner is desirous of developing the property with a single family dwelling in accordance with Petitioner's Exhibit 1. Testimony revealed that this property was acquired by the Petitioner on September 9, 1976. This is a small lot, 50 feet wide. The rear property line is not parallel to the front property line, and thus, the depth of the lot ranges from 132.1 feet to 150 feet, with a total area of 7,072 sq.ft., or .16 acres. On behalf of the Petitioner, Mr. Kelly testified that he has built several homes in this community, including Mr. Joseph Sweet's home immediately adjacent to this property. Mr. Kelly became aware of Mr. Resnick's ownership of the property shortly after completing Mr. Sweet's home and approached Mr. Resnick about constructing a single family dwelling on his property. The model proposed is known as the "Chandon" which is 40 feet wide and 28 feet deep as more particularly described on the elevation drawing submitted into evidence as Petitioner's Exhibit 4. The 40-foot width includes an option which features a single car garage and attached family room which are 12 feet wide each. This house is proposed to be constructed on the subject property with the option of a single car garage and family room, thereby resulting in side yard setbacks of 5 feet on each side. Mr. Kelly testified that, in his opinion, the proposed construction will not be detrimental to the surrounding locale and is compatible with the neighborhood. He indicated that there are other homes in the vicinity on 50-foot wide lots and that he has built a similar model home in this community. He also testified that efforts would be made not to remove trees or otherwise disturb the existing lot any more than necessary.

As to the Protestants, they uniformly object to the proposed dwelling as they believe that the subject lot is too small. They are particularly concerned over the potential increase in storm water runoff from the property due to the size of the proposed dwelling. They also fear the loss of trees on the property which currently act as a buffer for many residents from the Holiday Inn and commercial uses located nearby. It should be noted that a Holiday Inn exists to the rear of the site on Belmont Road. Other concerns over traffic, emergency vehicle access, parking and similar issues were also raised by the Protestants.

It should first be noted that Section 304 of the B.C.Z.R. allows for construction of a single family dwelling on an undersized lot under certain conditions. Three criteria must be met in order for construction to be allowed as of right. First, the subject undersized lot must be part of a subdivision duly recorded prior to March 30, 1955, the date of the first comprehensive zoning regulations in Baltimore County. In this case, a plat of the community was submitted which demonstrates that this subdivision was recorded in 1927. Obviously, this is an older, well-established neighborhood. Thus, in view of this recorded plat, the Petitioner satisfies the first prong of Section 304. The second criteria to be met is that the property owner can own no adjacent lands. Mr. Resnick also meets this test in that Mr. Sweet owns the property on one side and the Zimmermans own the property on the other side. The third criteria under Section 304 requires that all other height and area regulations can be met. In this instance, Mr. Resnick fails to satisfy the test. That is, by virtue of the fact that a variance to side yard setback requirements is necessary, it is clear that he does not meet all height and area requirements within the B.C.Z.R. Since he fails to meet all three of those tests, Mr. Resnick

cannot develop the property as of right, and thus, the requested variances are necessary.

Although development of the property as of right pursuant to Section 304 is not allowed, the evaluation of the site in accordance with those standards is significant. As noted above, the property is zoned D.R. 3.5, a residential classification. Any property owner has the right to develop this property in accordance with the permitted uses thereon. This is not a publicly owned parcel which must be maintained for the benefit of other property owners in the neighborhood. Thus, the neighbors have no right to expect that this property should be maintained and utilized only for their Benefit. Mr. Resnick's proposed use of the property is clearly permitted, just as Mr. Sweet was able to develop his property with a residential dwelling less than one year ago.

Furthermore, an evaluation of the variances requested must be made in accordance with the standards set forth in Section 307 of the B.C.Z.R. Therein, the Petitioner must show that he would suffer a practical difficulty if strict adherence to the regulations were required, that no detriment would be suffered by the surrounding community if the variance relief is granted, and that the relief granted is within the spirit and intent of the regulations. Surely the practical difficulty test is met in this instance. If strict adherence to the regulations were required, residential development would be impractical. Furthermore, I am convinced that a granting of the variances is within the spirit and intent of the regulations and can be accomplished without detriment to the surrounding locale.

However, the Petitioner must also show that the variance requested is the minimum relief which must be sought. On this count, the Peti-

tioner's evidence was not convincing. Although it is clear that the Petitioner needs a variance from the lot width and area requirements, I am not convinced that 5 foot side yard setbacks on either side are the minimum that can be obtained. In fact, Mr. Kelly testified that there were other housing types which might be practical on this site.

Under the circumstances, I shall approve the relief requested to permit construction on a lot with a total area of 7,072 sq.ft. in lieu of the required 10,000 sq.ft., and a width of 50 feet in lieu of the required 70 feet. As to the side yard setbacks however, I will require that the proposed dwelling be no greater than 28 feet in width. Thus, the model shown on Petitioner's Exhibit 4 may be constructed, without a garage or family room addition. In the alternative, other models less than 28 feet in width can be constructed. This will allow an additional 12 feet to be provided for the side yards. As to this additional distance, the Petitioner shall maintain at least a 15-foot side yard setback on the south side facing Mr. Sweet's home. The exhibits offered showed that the dwelling on the Sweet is the closest dwelling to the property and thus, I believe that the larger side yard should be oriented towards that dwelling. A 15-foot side yard on that side, coupled with Mr. Sweet's 21-foot existing side yard should provide a large enough distance between the two homes. Moreover, a 7-foot side yard setback should be maintained on the north side. It should be noted that the closest dwelling on that side is at least 100 feet away. Moreover, as required by Baltimore County, any dwelling constructed on this lot should face Edwards Avenue.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted, as modified above.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 5th day of August, 1994 that a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 7-foot side yard setback on the north side and a 15-foot side yard setback on the south side for a total side yard sum of 22 feet in lieu of the required 25 feet, a lot width of 50 feet in lieu of the required 70 feet, and a total area of 7,072 sq.ft. in lieu of the minimum required 10,000 sq.ft. for a proposed dwelling, be approved, and as such, the Petition for Variance, as modified, is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The size of the proposed dwelling is limited to 28 feet x 40 feet in accordance with the model depicted on Petitioner's Exhibit 4, without the option of a single car garage and family room. In lieu of this particular model, another model of less than 28 feet in width and 40 feet in depth would be permitted.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) side yard setbacks of 5 feet each in lieu of the minimum required 10 feet and a total side yard sum of 10 feet in lieu of the required 25 feet, be and is hereby DENIED.

LES:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

August 5, 1994

(410) 887-4386

Julius W. Lichter, Esquire
105 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21285-5517

RE: PETITION FOR VARIANCE
E/S Edwards Avenue, 243.5' N of the c/l of Gordon Road
(Lot 3 of Belmont Heights)
3rd Election District - 2nd Councilmanic District
Martin Resnick/Martin's, Inc. - Petitioner
Case No. 94-531-A

Dear Mr. Lichter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance, as modified herein, has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Morgan Kelly
9259 Broken Timber Way, Columbia, Md. 21045

Mr. Joseph Sweet, 6702 Edwards Avenue, Baltimore, Md. 21244

Ms. Alice A. Zimmerman and Ms. Diane L. Zimmerman
6712 Edwards Avenue, Baltimore, Md. 21244

Ms. Mary Ross, 6711 Edwards Avenue, Baltimore, Md. 21244
Mr. Gus R. Bond, 1750 Gordon Avenue, Baltimore, Md. 21244

People's Counsel; File

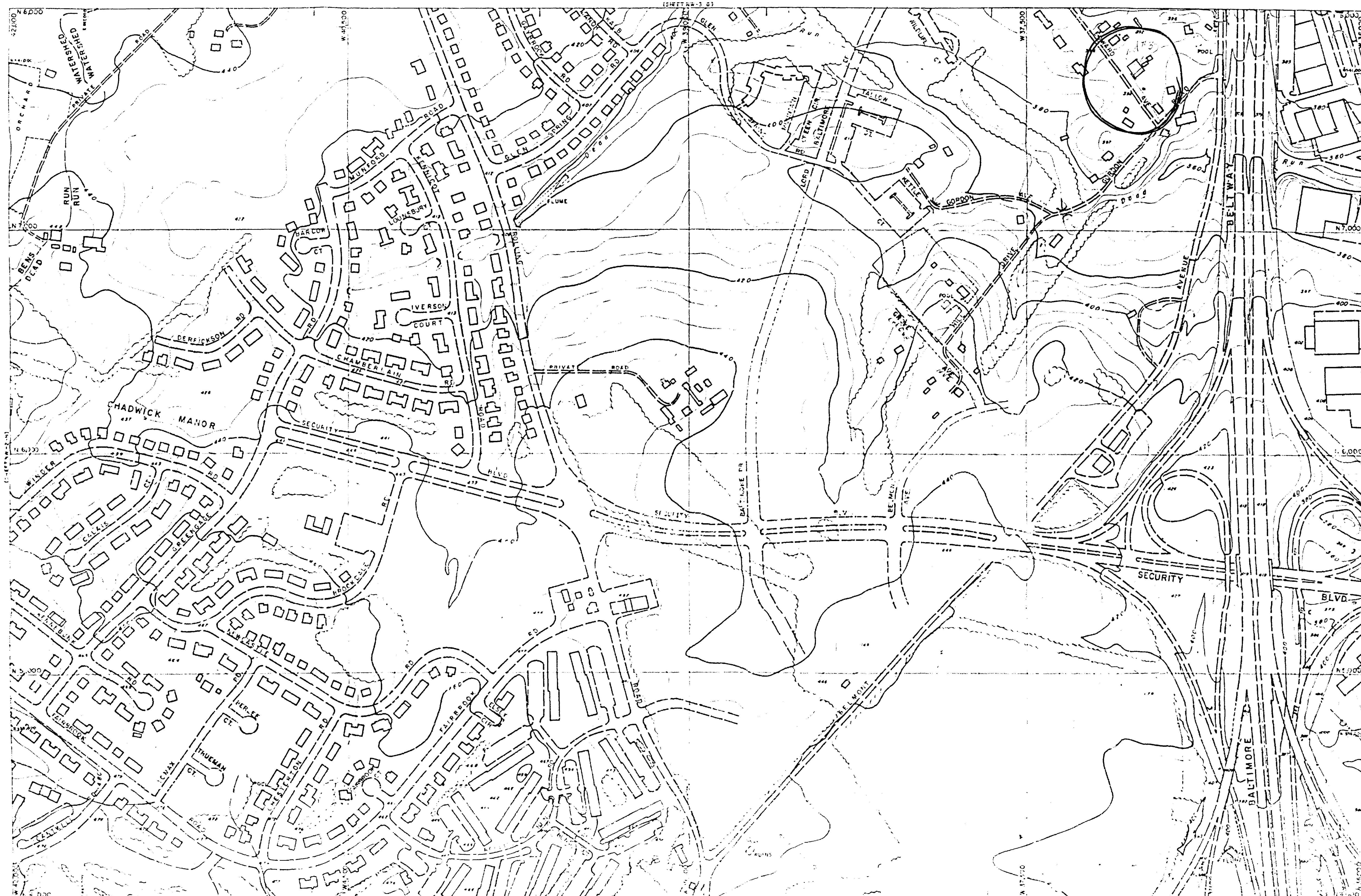
Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at Belmont Heights Subdivision
Lot #3 W. P. C. #7 Part 1-35
which is presently zoned DR 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3c.1 to permit 5' foot side yards, 50' lot width; 7072 sq. feet of area (See attached undersized lot recommendation) in lieu of 10' min. side yard and a total of 25' for both side yards. 70' lot width & 10000 sq. foot area. Per Sec. 304, B.C.Z.R.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate headsip or practical difficulty)
1. Dr. 3.5 zoning require 70' frontage, 10' min. for one side yard & 25' total for both.
2. Lot #3 is 50' across the front; ~~4'-0" min. side yards - proposed~~
3. I would like to build a single family house on my lot, of a size typical of the neighborhood.
4. The houses in the neighborhood are all about the width of the proposed house. Property is to be posted and advertised as prescribed by Zoning Regulations.

*Footnote: The house next door & one other in this block are constructed on 50' lots. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor:
(Type or Print Name)
Signature
Address
City State Zipcode
Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City State Zipcode
Name, Address and phone number of representative to be contacted
Mr. Martin Resnick / Martin's Inc.
(Type or Print Name)
Signature
(Type or Print Name)
Signature
Address
City State Zipcode
Name, Address and phone number of representative to be contacted
Mr. Morgan C. Kelly
(Type or Print Name)
Signature
Address
City State Zipcode
Name, Address and phone number of representative to be contacted
9259 Broken Timber Way (410) 997-1975
Columbia, MD 21045
Phone No.
ESTIMATED LENGTH OF HEARING
Uninterrupted for Hearing
The following date
Hear Two Months
REVIEWED BY: SLB DATE: 6-29-94

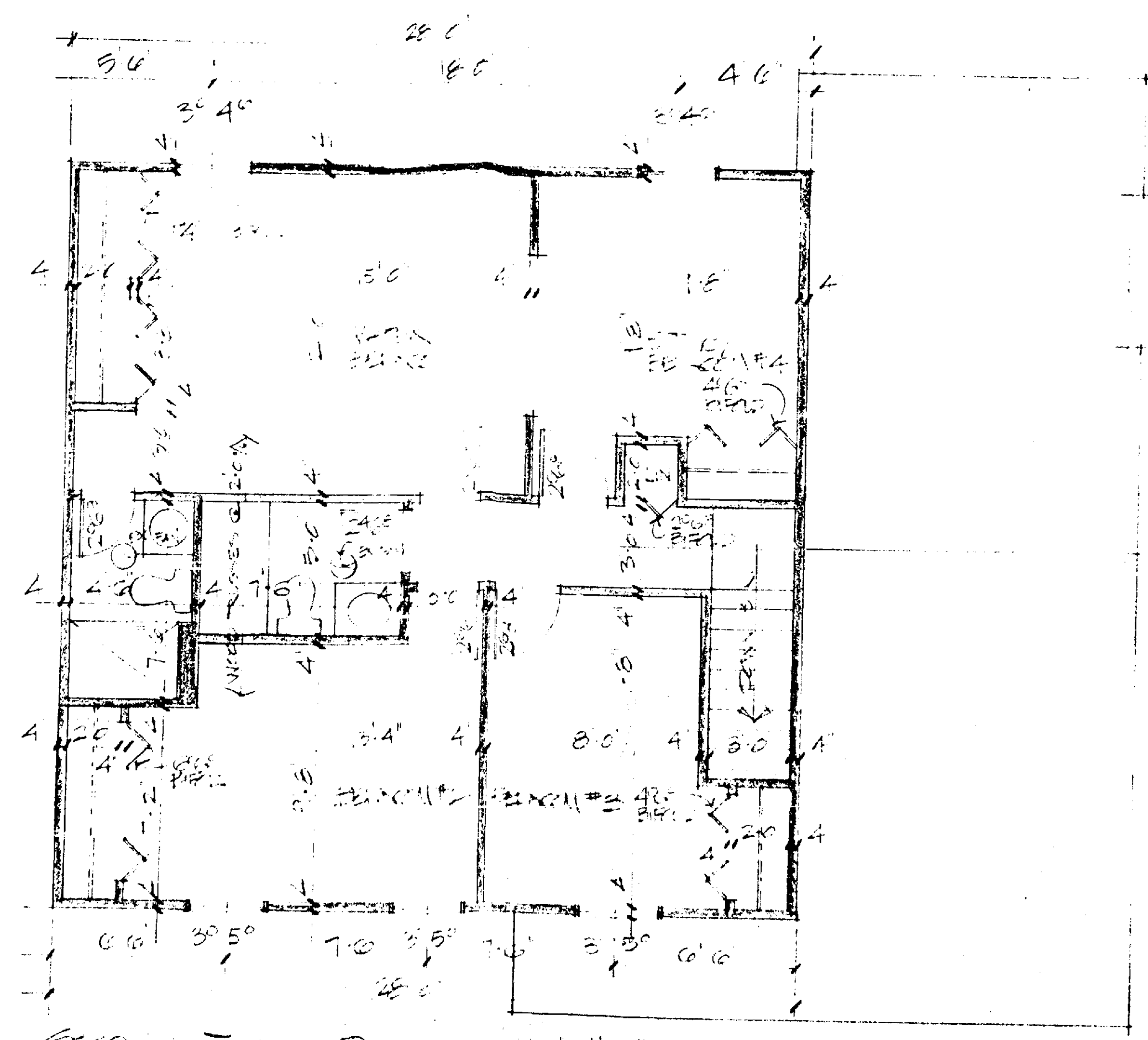


L-SE

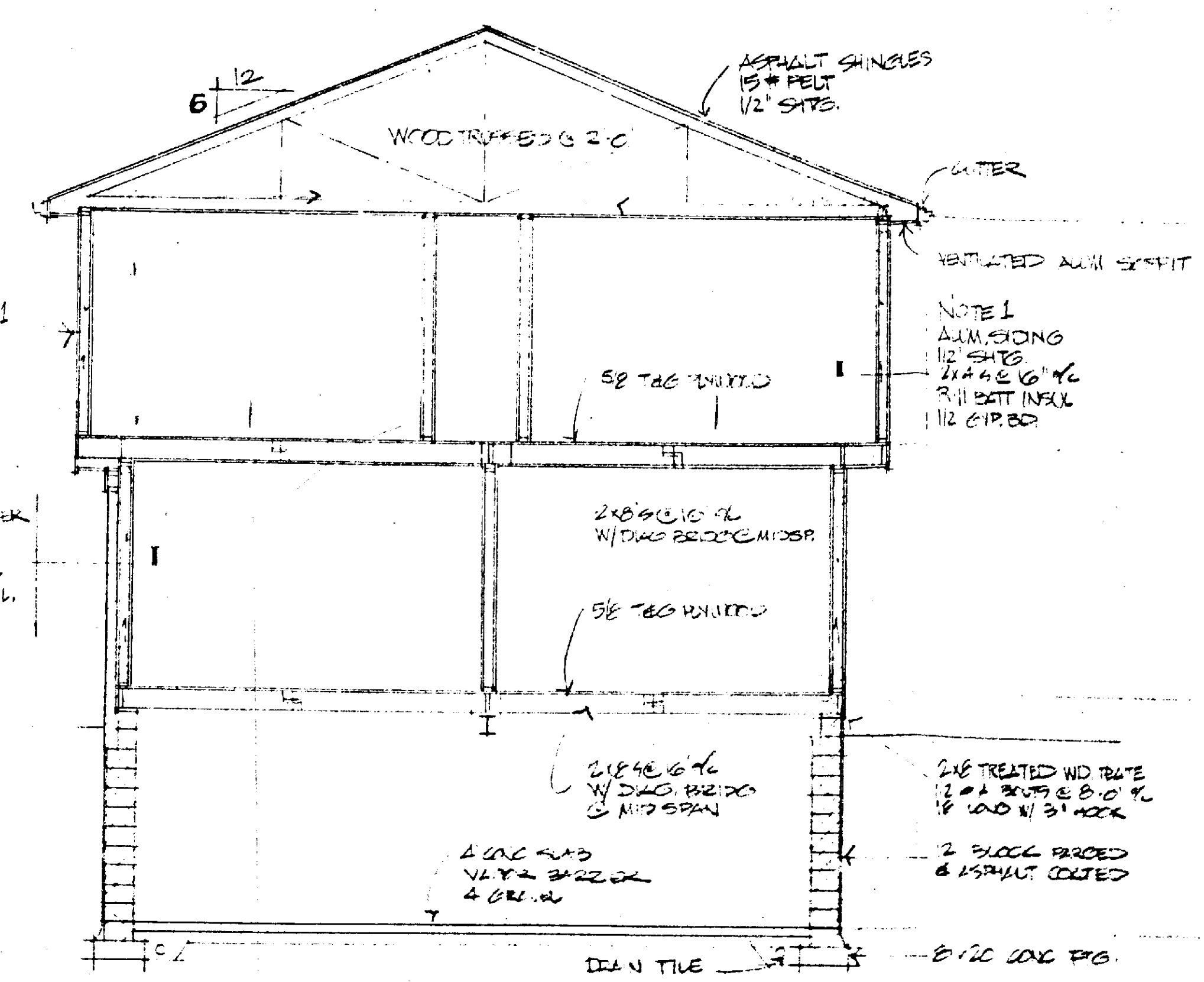
PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA

| REVISIONS | DATE | SCALE | LOCATION | SHEET |
|------------------------|------------|-----------|----------|-------|
| BY Moss, Inc. | 7-70 | 1" = 200' | BELMONT | N. W. |
| DATE OF PHOTOGRAPHY | APRIL 1953 | | | 2-G |

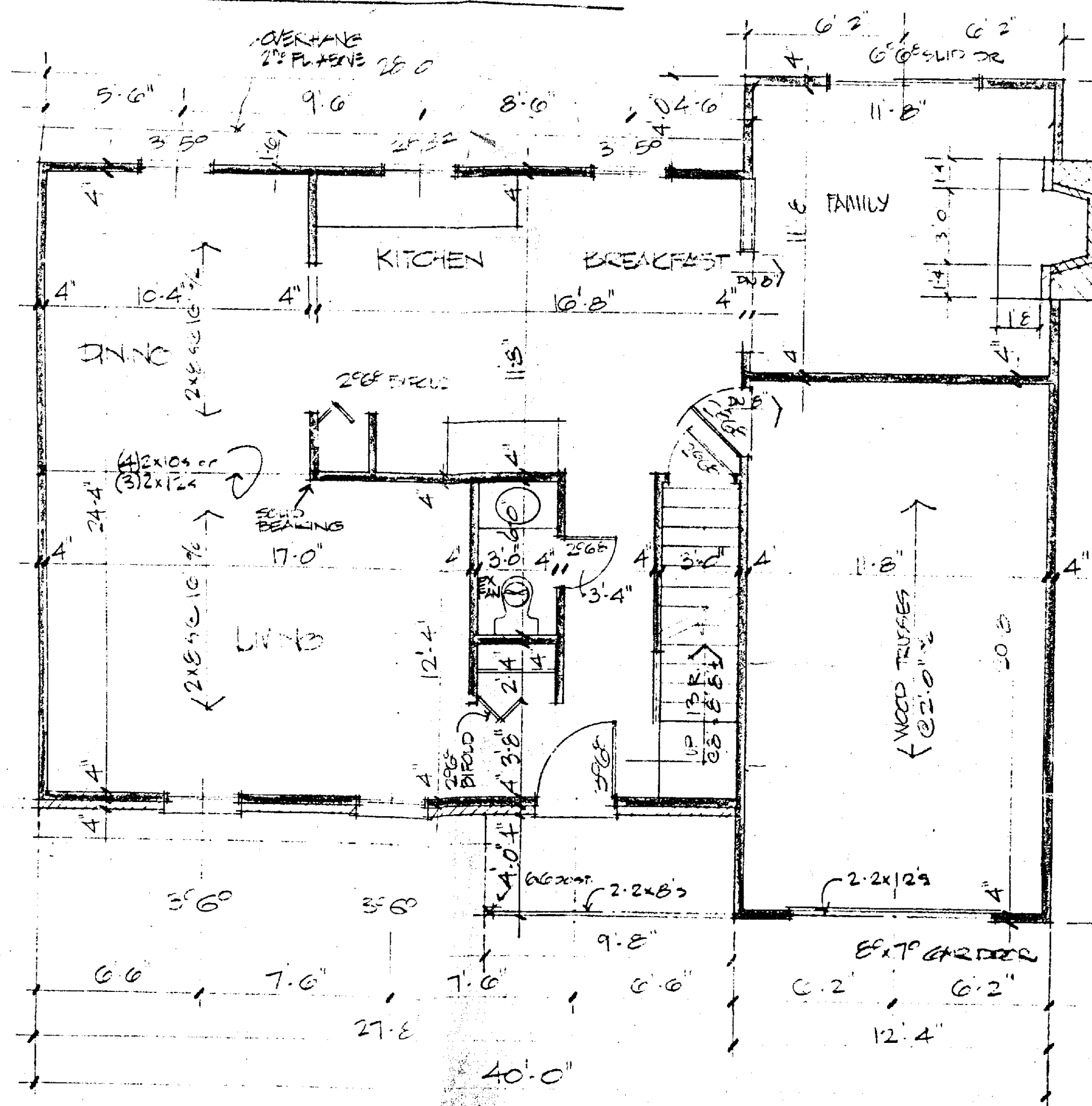
Topography Compiled By Photogrammetric Method
Aerial Service Corporation, Philadelphia, PA



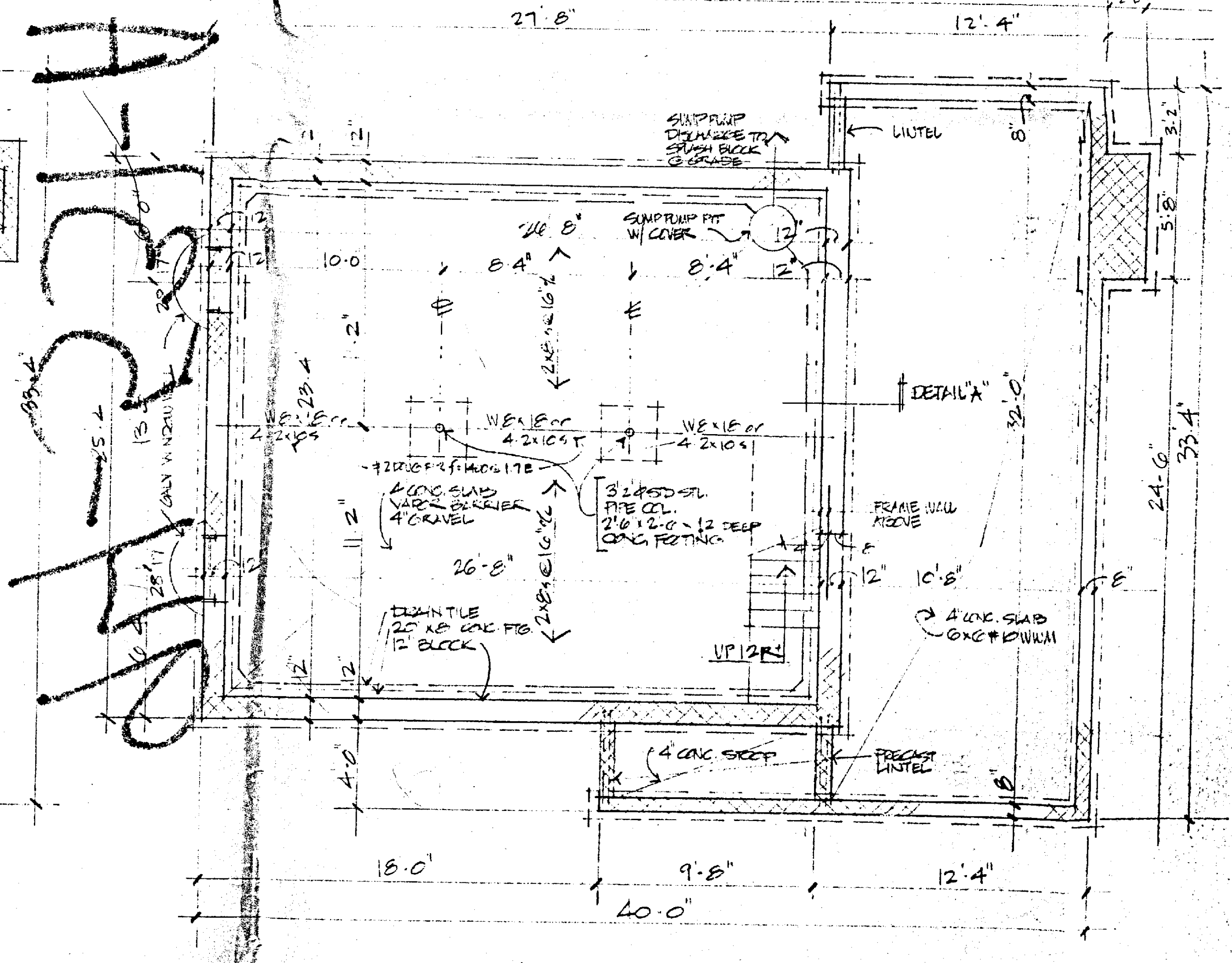
SECOND FLOOR PLAN SCALE 1/4" = 1'-0"



CROSS SECTION SCALE 1/4" = 1'-0"

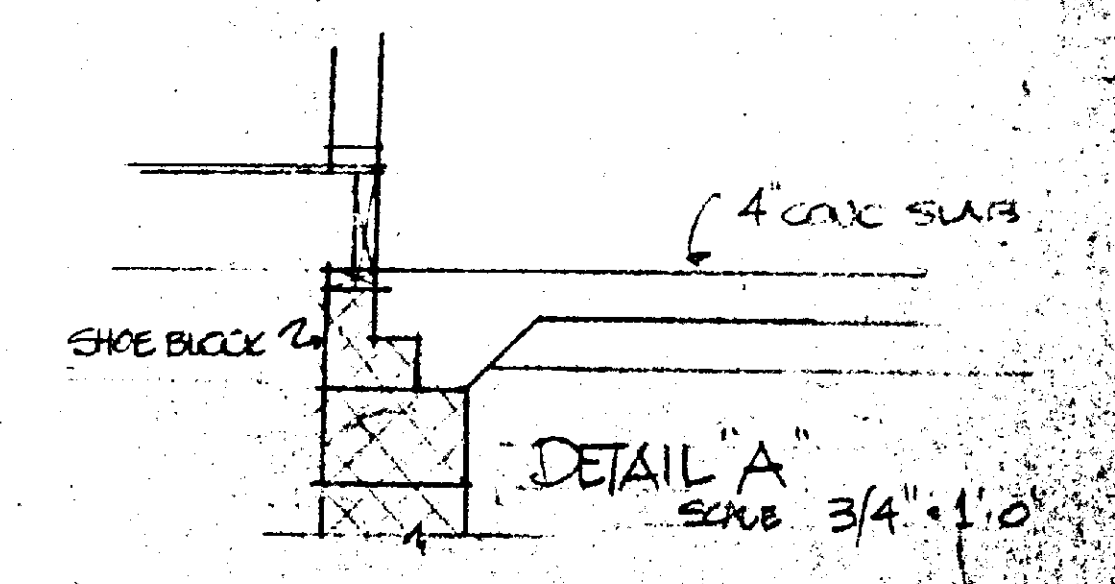


FIRST FLOOR PLAN SCALE 1/4" = 1'-0"



BASEMENT & FOUNDATION PLAN SCALE 1/4" = 1'-0"

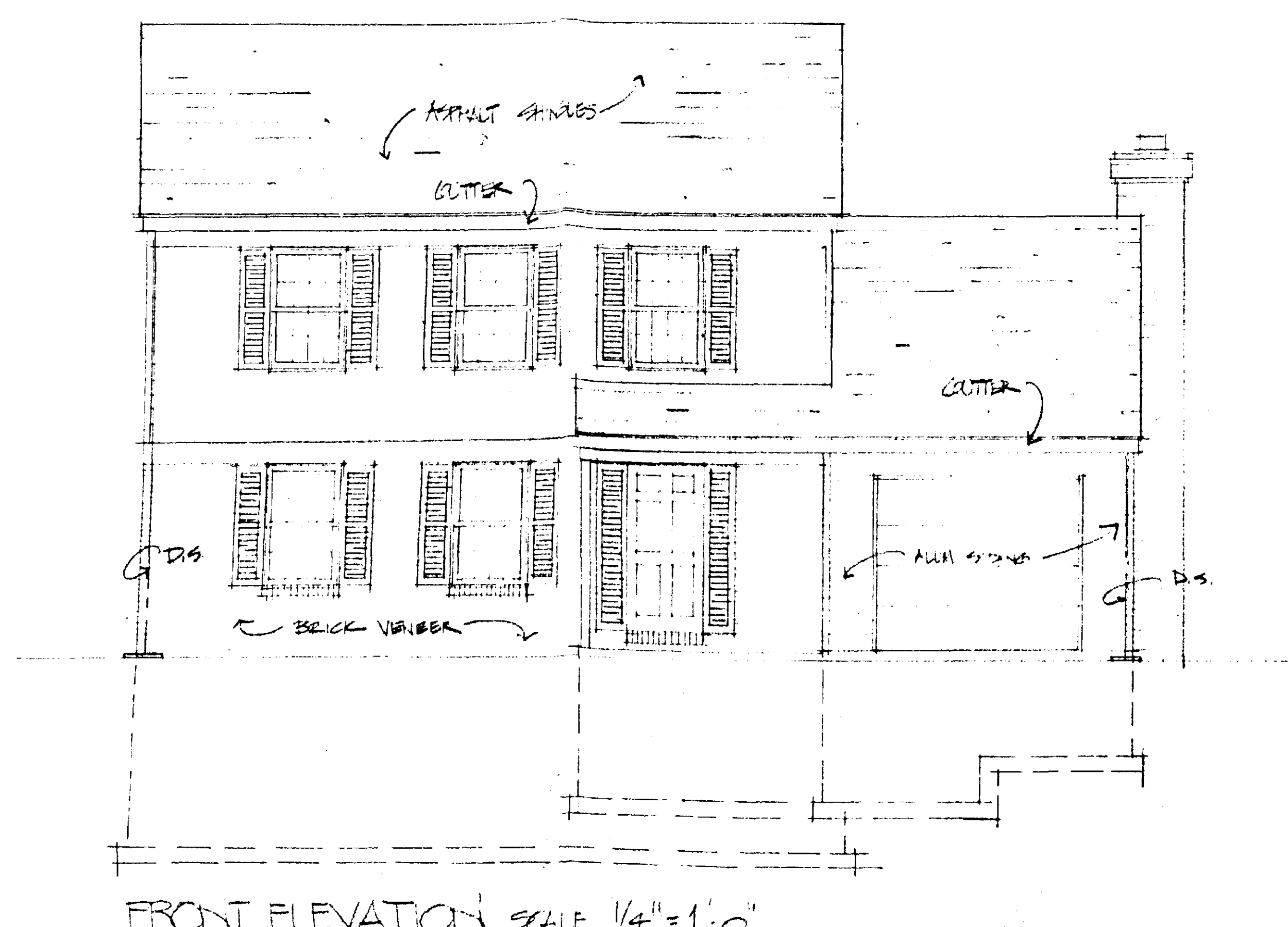
- GENERAL NOTES:**
1. STRUCTURAL LUMBER SHALL BE NO. 2 HEAVY-FIR, F-150 @ 1.4 E UNLESS NOTED OTHERWISE.
 2. ALL WOOD TRUSSES SHALL BEAR THE STAMP OF THE TRUSS RATE INSTITUTE.
 3. INSULATION:
 - A. FRAME WALLS - R-11.
 - B. ATTIC - R-30.



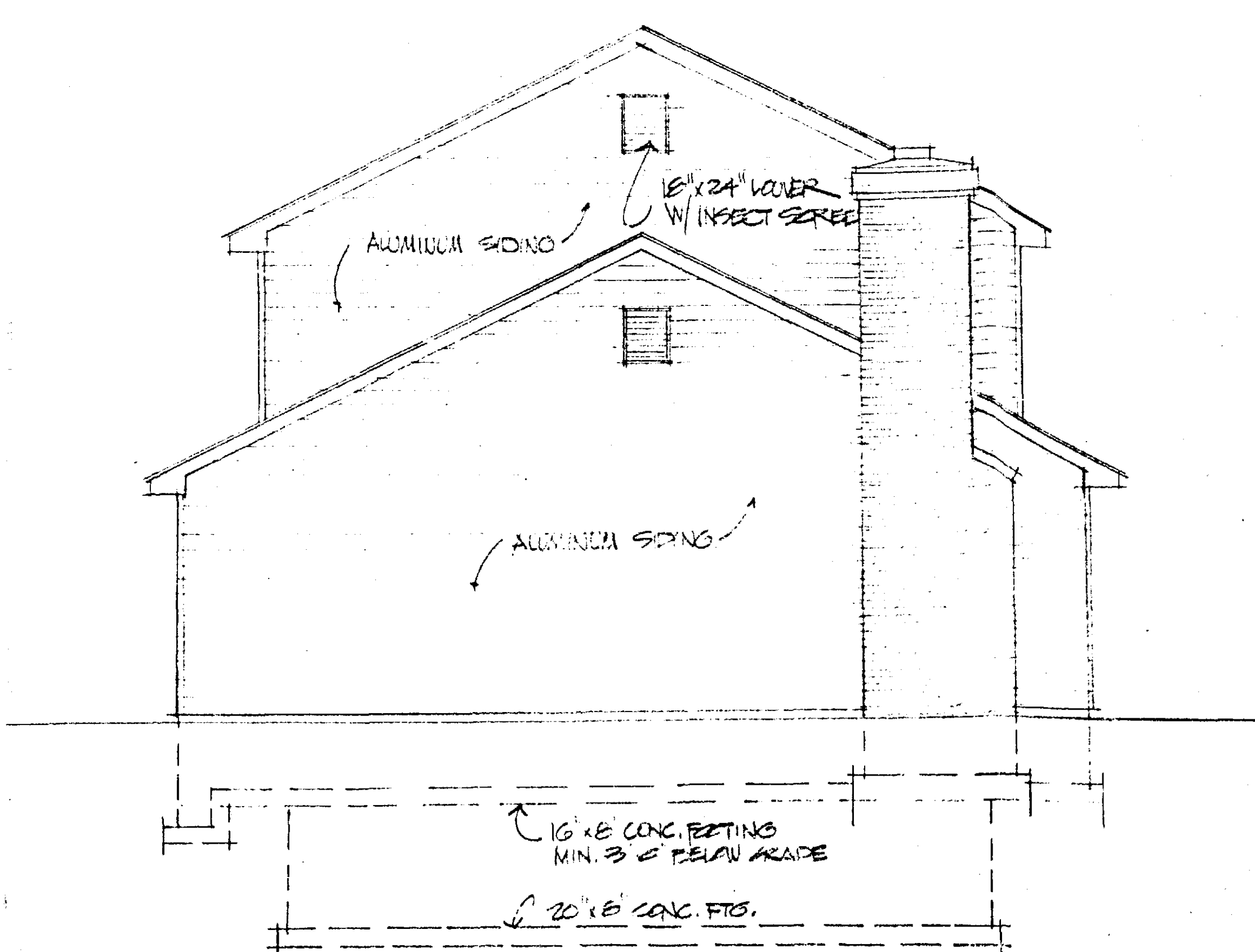
REVISED: MARCH 26, 1984

JOHN J. STANTY
ARCHITECT

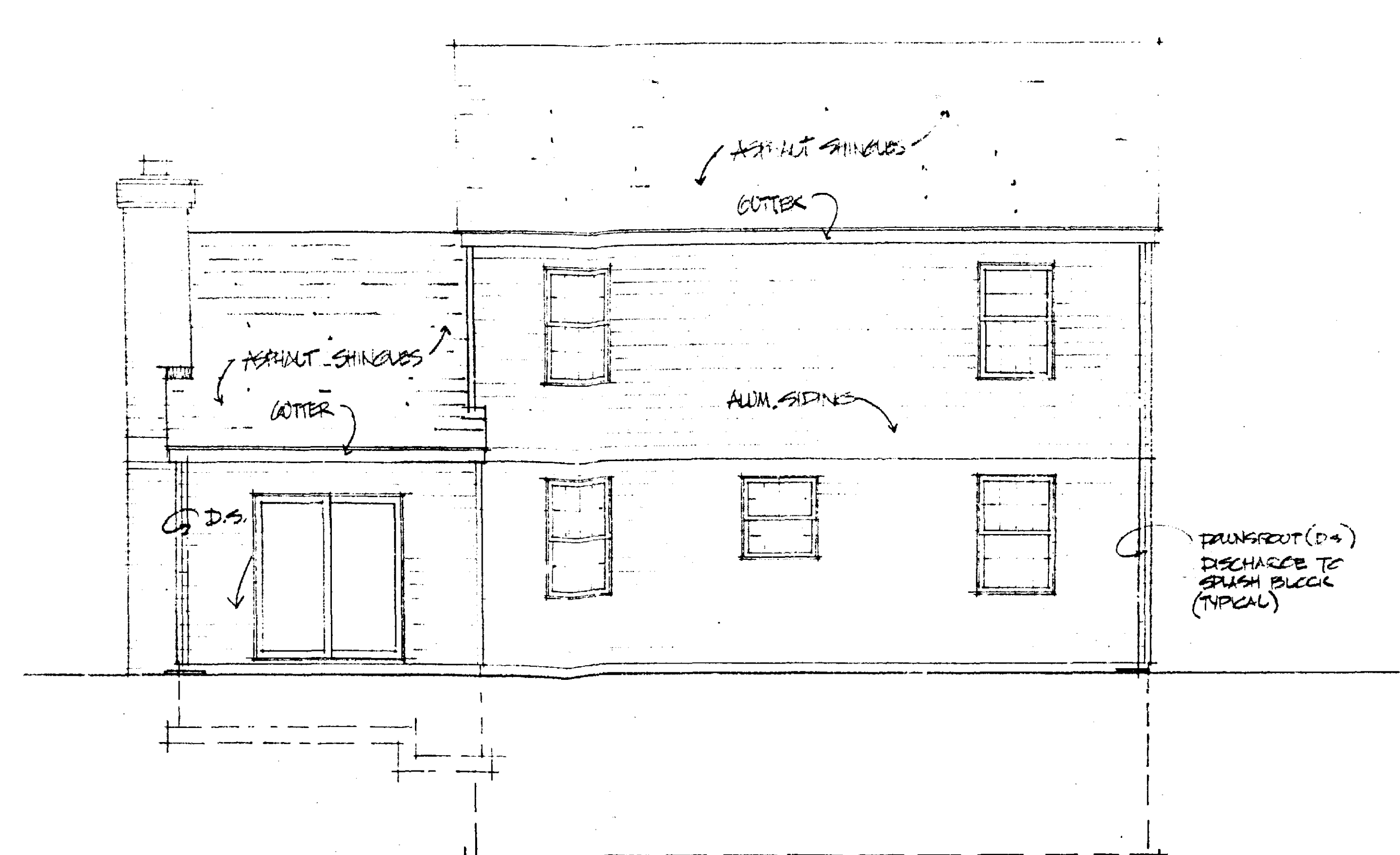
JOHN J. STANTY
ARCHITECT
1000 N. 10TH ST.
TOWSON, MD 21204
TEL: 301-251-1000



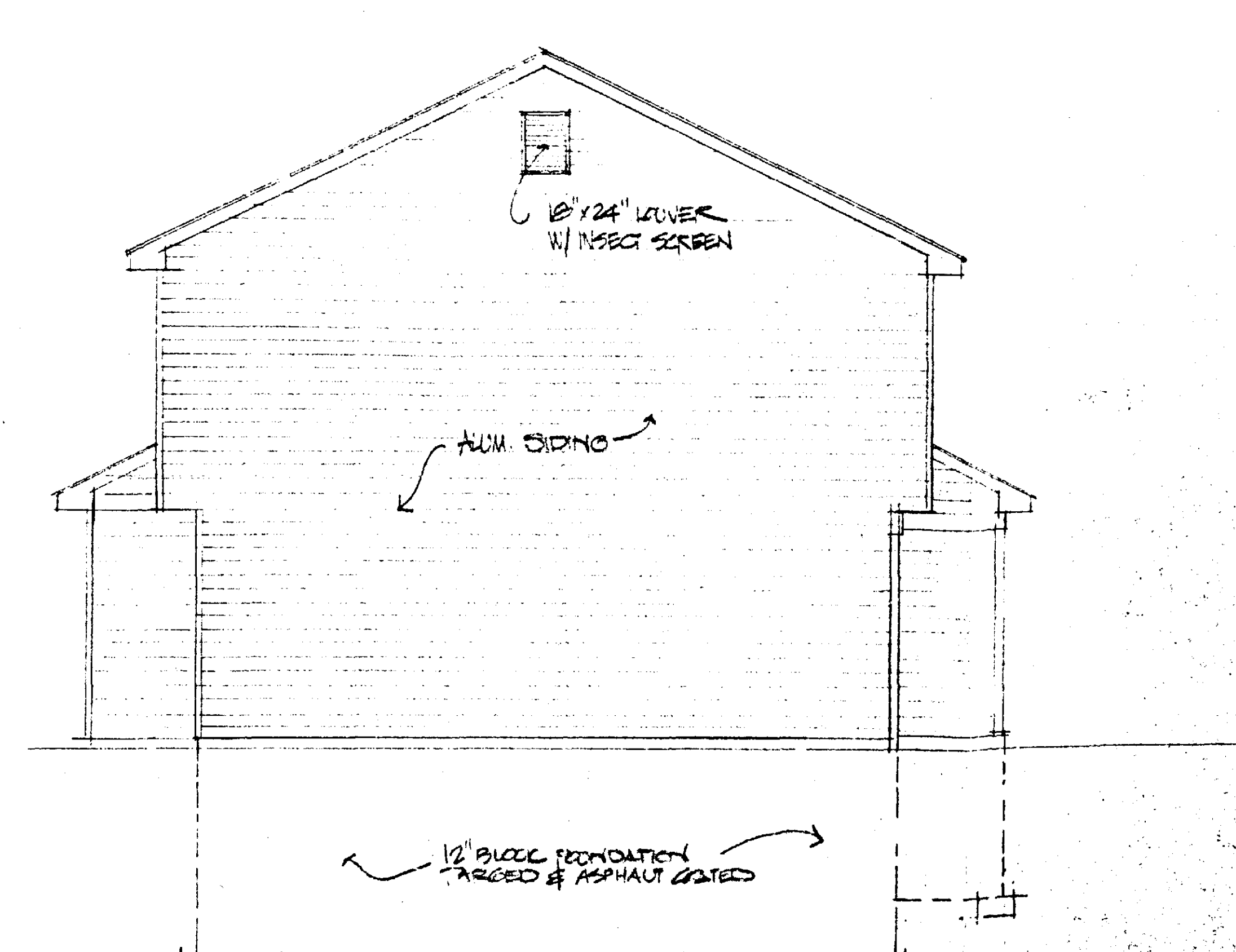
FRONT ELEVATION SCALE 1/4"=1'-0"



RIGHT SIDE ELEVATION

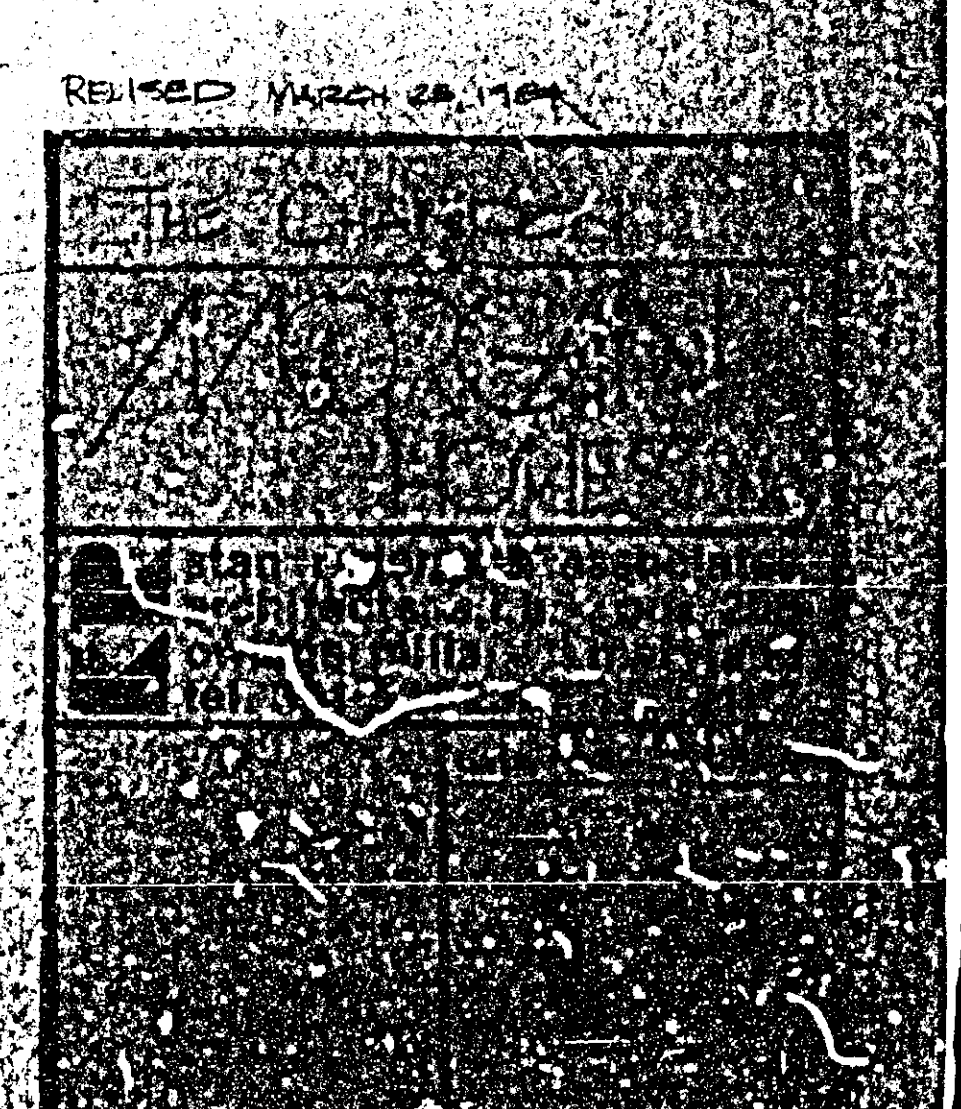


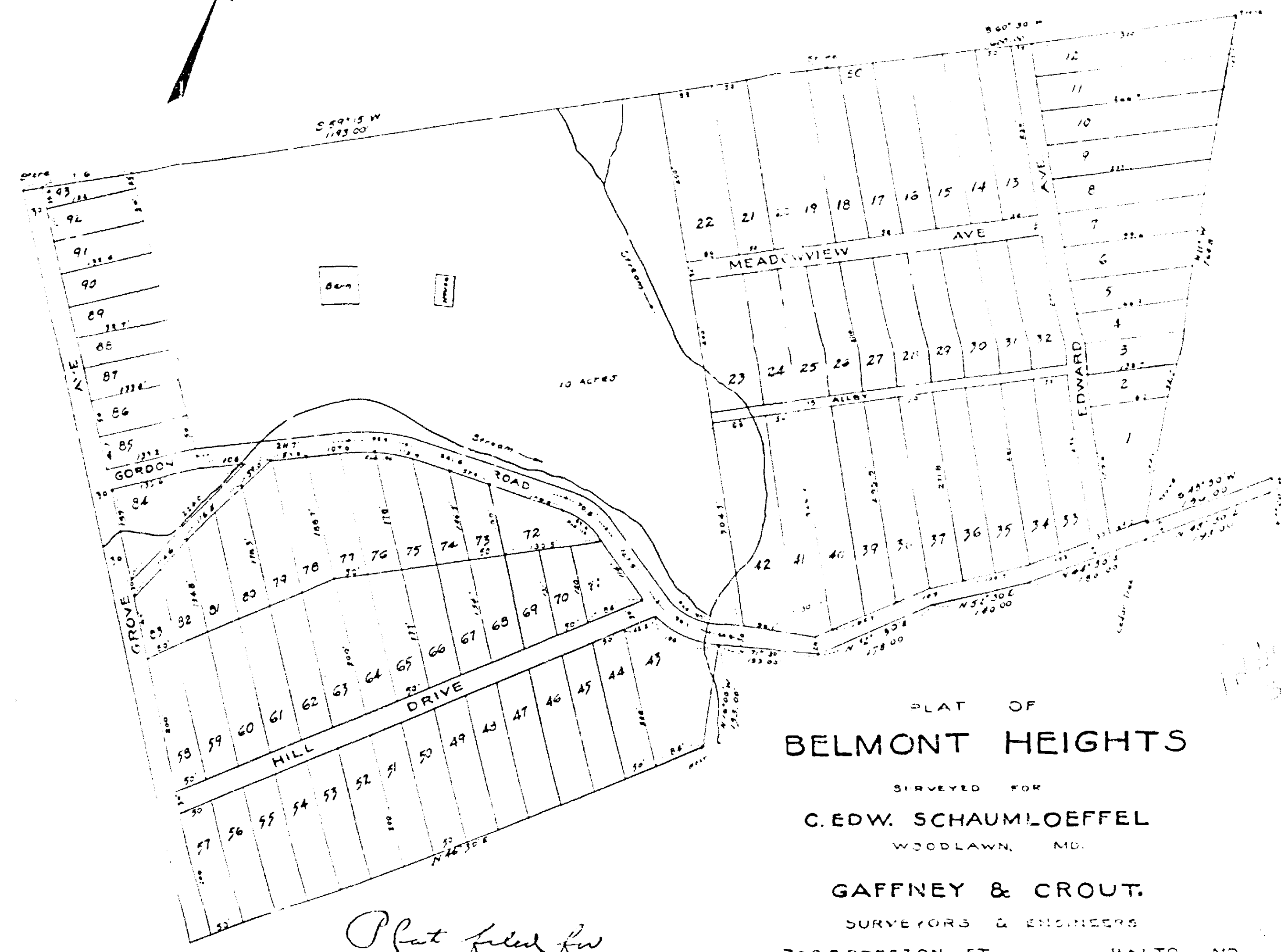
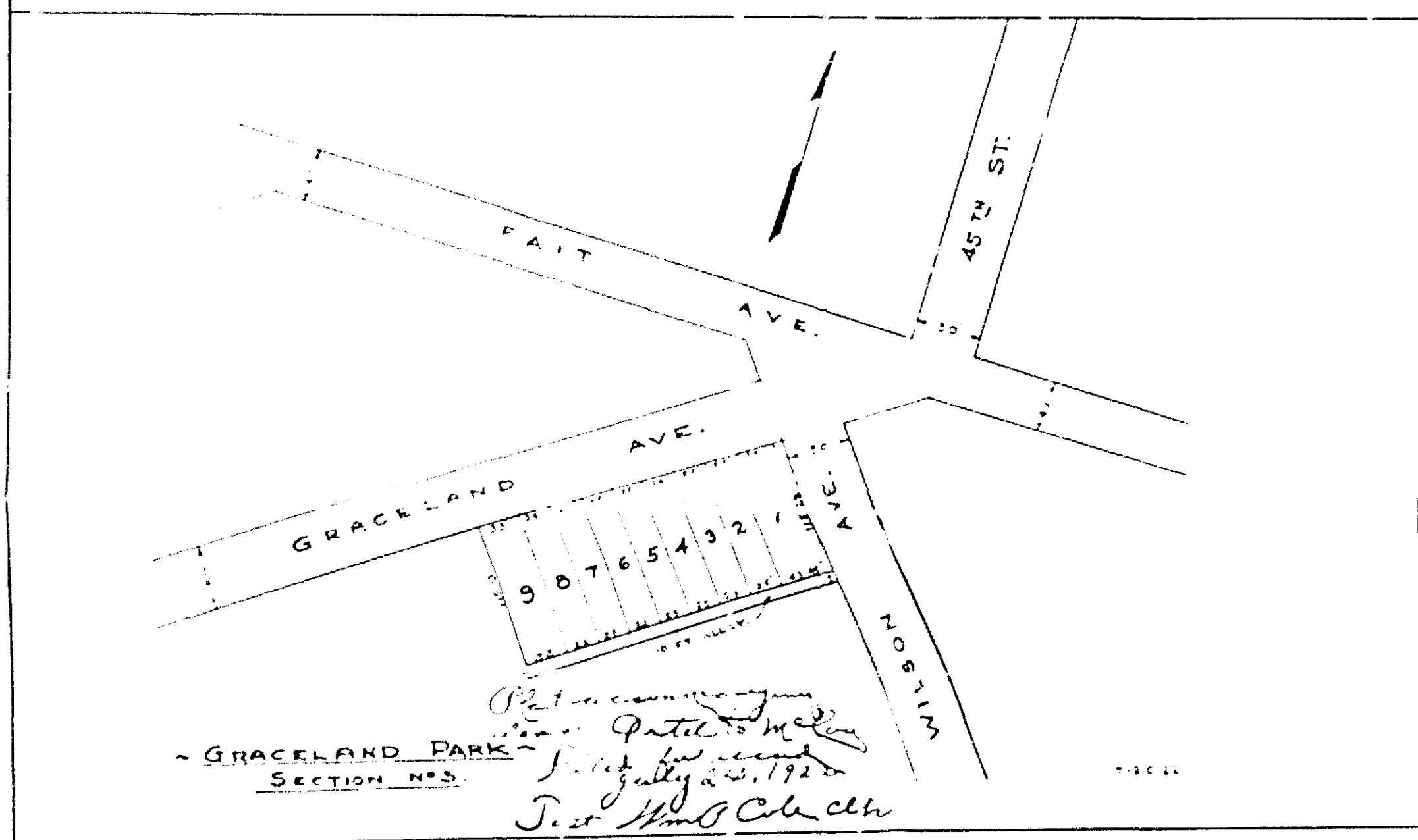
REAR ELEVATION SCALE 1/4"=1'-0"



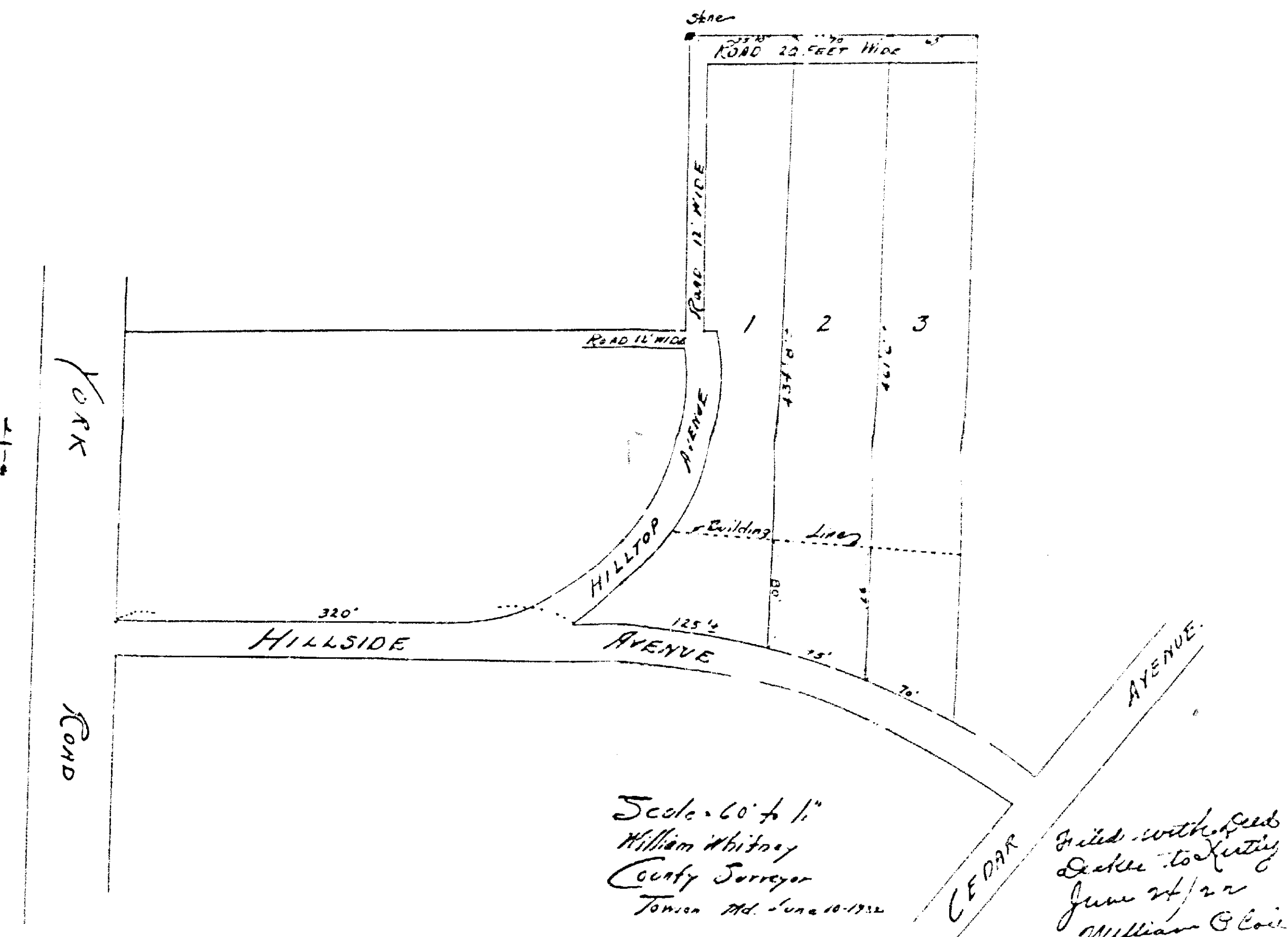
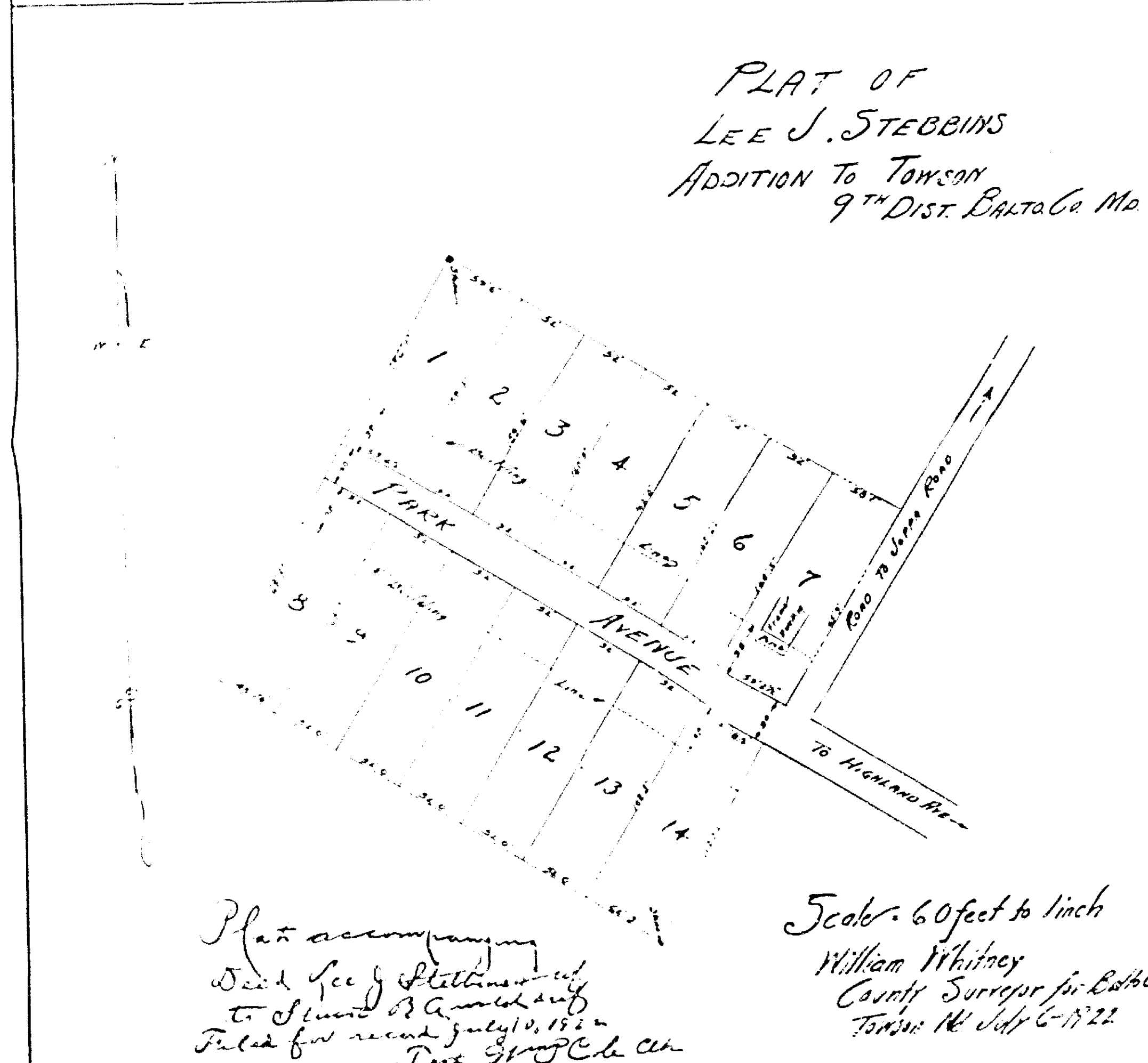
LEFT SIDE ELEVATION

Plot No 4

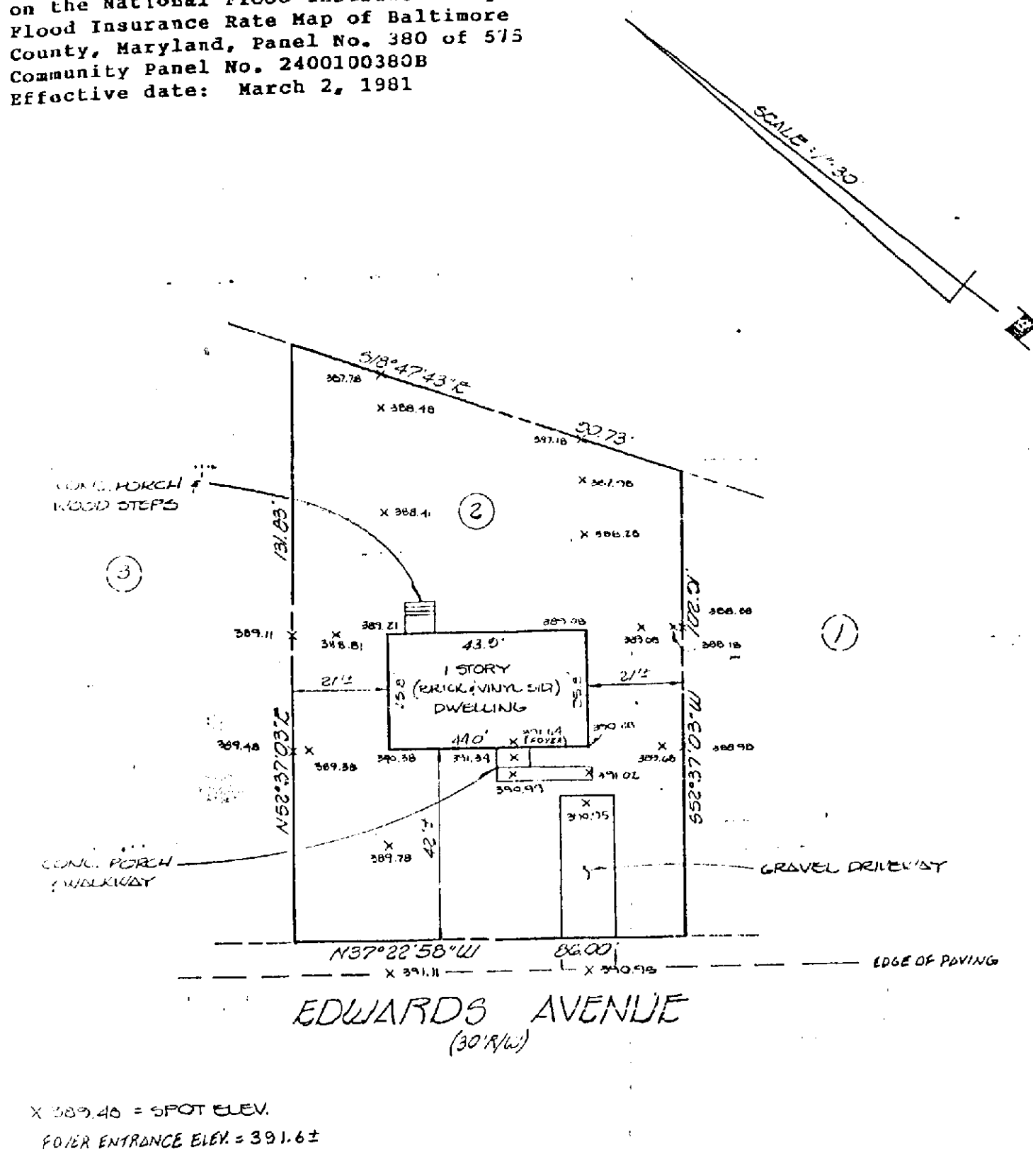




Plat filed for
recd June 6, 1922
Test H. P. Cole
Clerk.



Subject property is shown in Zone C on the National Flood Insurance Program Flood Insurance Rate Map of Baltimore County, Maryland, Panel No. 380 of 575 Community Panel No. 7400100908 Effective date: March 2, 1981

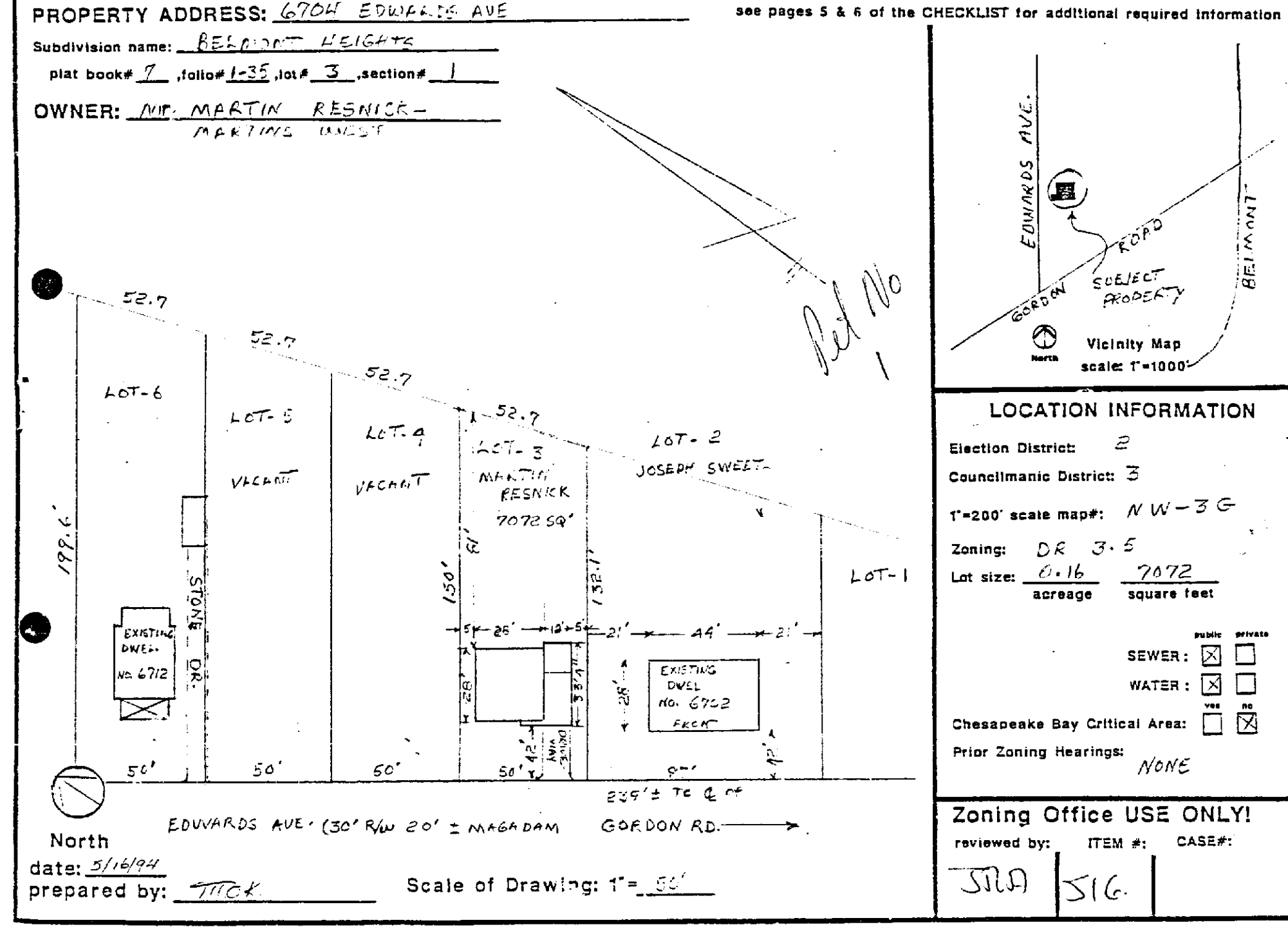


This is to certify that I have surveyed the property known as LOT 3 EDWARDS AVENUE RECORDED AS DEED REF. 100-1-025 AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND for the purpose of locating the improvements thereon, and the improvements are located as shown on this plat.

Signed this 22nd day of June 1979

FISHER, COLLINS & CARTER, INC.
CIVIL ENGINEERS, SURVEYORS & LAND SURVEYORS
100 BALTIMORE AVENUE, SUITE 200
BALTIMORE, MD 21202
(410) 524-1000

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing



REAL ESTATE TITLE COMPANY, INCORPORATED
Kryer Building
Baltimore, MD
LE 5120 9-3212

App. No. 100889
Lawyer's Title
Insurance Corporation
Richmond, Virginia

This Deed, Made this ninth **day of** September
In the year one thousand nine hundred and seventy-six by and between
ANNE C. MULLINEAUX BARRY, of Baltimore County, State of Maryland, of the first part; and
MARTIN'S, INC., a body corporate of the State of Maryland, of the second part.

WITNESSETH that in consideration of the sum of Five (\$5.00) Dollars and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said party of the first part:

do hereby grant and convey unto the said party of the second part, its successors

ALL and assigns, in fee-simple, all that lot of ground situate, lying and being in Baltimore County, State of Maryland and described as follows, that is to say:

BEGINNING for the same on the northeasternmost side of Edward Avenue in the First Election District of Baltimore County, being Lot Number Three, (No. 3) as laid down on the Plat of "RELAND HEIGHTS", said plat being recorded among the Land Records of Baltimore County in Plat Book Liber W.P.C. No. 7, folio 25; said lot fronting 50 feet on the northeasternmost side of Edward Avenue with a parallel depth easterly of 132.7 feet on the southernmost side line and depth of 149.45 feet on the northernmost side line.

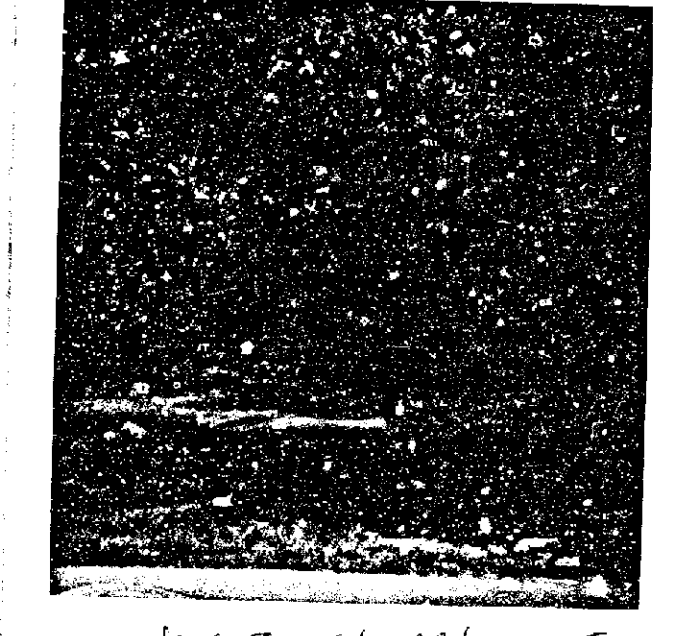
BEING the same lot of ground described in a Deed dated July 12, 1972 and recorded among the Land Records of Baltimore County in Liber S.H.K. Jr. No. 5286, folio 325 from Emily Cecelia Mullineaux unto the within party of the first part, Grantor herein.



House built on a 50' fifty foot lot located in the same Block # 716 EDWARDS AVE



House next door - South 22nd 6702 Edwards



Lot # 3 Edwards, photo taken from front



Lot # 3 Taken from North of lot.

MARTIN'S INC.
6821 Dogwood Road
Baltimore, MD 21244

To Whom It May Concern,

Please be advised that we are currently planning to construct a single family residence on Lot # 3 Edwards Ave.

I am requesting that you, as a member of the Community, please sign below if you have no objections.

Thank You

Signature _____ Address _____

L. A. Martin 6701 EDWARDS AVE

Oliver Zimmerman 6712 Edwards Ave

Mary P. Ross 6711 Edwards Ave

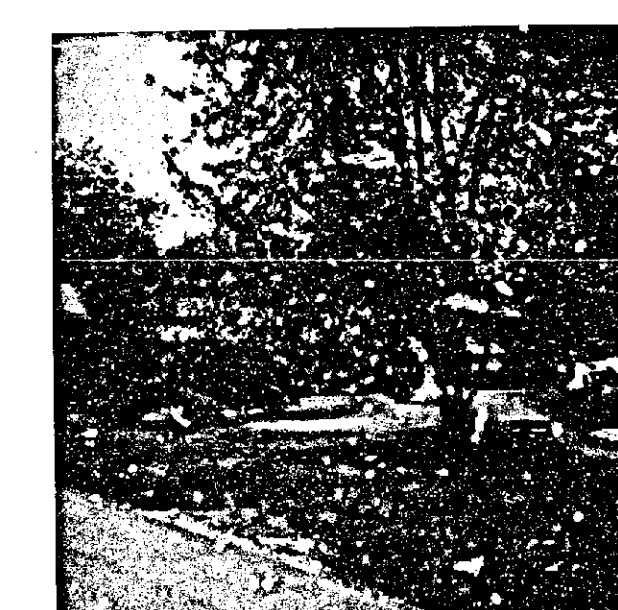
Joseph Sweet 6712 Edwards Ave

Plat No 6

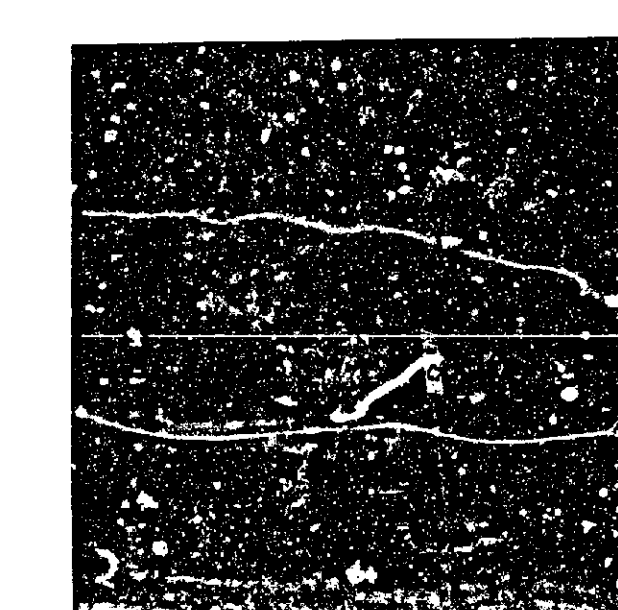
SIG.



House next door 6712 Edwards



Lot # 3, 4, 5. Plus house next door - North located on a 50' foot lot - 6712 Edwards



Lot # 3 Edwards MARTIN'S INC. own-ship

Plat 51B

Petitioner's Exhibit 7A+7B



Zoning Description - 3 copies

Three copies are required. Copies of plans must be used in place of this description. Use this fill-in form provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR LOT'S EDWARDS AVE. BELMONT HEIGHTS SUBDIV.
(address)
Election District 2 Councilmanic District 3

Beginning at a point on the EAST side of EDWARDS
(north, south, east or west)
AVENUE which is (30') FEET
(street on which property fronts)
wide at a distance of 245.6 of the
(number of feet) (north, south, east or west)
Centerline of the nearest improved intersecting street: GORDON ROAD
(name of street)
which is 30' FEET wide. *Being Lot # 3
(number of feet of right-of-way width)
Block --- Section --- in the subdivision of
BELMONT HEIGHTS SUBDIVISION as recorded in Baltimore County Plat
(name of subdivision)
Book # 7 Folio # 1-35 containing
7072
(square feet and acres)

*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed Liber --- Folio ---" and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N.87° 12' 13" E. 321.1 ft., S.18° 27' 03" E. 87.2 ft., S.62° 19' 00" W. 318 ft., and N.08° 15' 22" W. 80 ft. to the place of beginning.

516

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 3rd Date of Posting: 7/19/94
Posted for: Martin's, Inc.
Petitioner: Martin's, Inc.
Location of property: 6704 Edwards Ave., Bk.
Location of Sign: Lawrence E. Schmidt, Zoning Commissioner
Remarks: ---
Posted by: --- Date of return: 7/21/94
Number of Signs: ---

CERTIFICATE OF PUBLICATION

TOWSON, MD., 7/15, 1994

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/14, 1994.

THE JEFFERSONIAN,
A. H. JENKINSON
LEGAL AD. - TOWSON

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 94-531-A (Item 516)
6704 Edwards Ave., 245.6 ft. N. of Gordon Road
3rd Election District - 2nd Councilmanic District
Petitioner(s): Martin's, Inc.
HEARING: TUESDAY, AUGUST 2, 1994 at 9:00 a.m. in Rm. 118, Old Courthouse.
Variance: to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.
LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are handicapped accessible; for special accommodations please call 887-3353.
(2) For information concerning the file and/or hearing, please call 887-3353.
7/17 July 14.

recept
94-531-A
Account: R-001-6150
Number: 516
STUA.

Date: 6-30-94
Mr. Martin Resnick/Martin's, Inc.
c/o Mr. Morgan Kelly
9254 Broken Timber Way
OIC: Reg. Var. 50
CSC: Sign. 33
CTOL: 885

01A1WJ056A1CHRC \$85.00
Please Make Checks Payable To: Baltimore County
Cashier Validation

PETITION PROCESSING FLAG

Item Number: 516
Planner: JRA
Date Filed: 6-28-94

This petition has been accepted for filing, after an initial review, and has been placed on the agenda for the zoning advisory committee. However, the following items were found to be missing or incomplete when the petition was included on the agenda by Sophia. A copy of this "flag" will be placed in the case file for the Zoning Commissioner's review. The planner that accepted the petition for filing has the option of notifying the petitioner and/or attorney prior to the hearing or Zoning Commissioner's review of the petition regarding the items noted below. If the petitioner/attorney is contacted by the planner, it is the petitioner's ultimate decision and responsibility to make a proper application, address any zoning conflicts, and to file revised petition materials if necessary. Delays and unnecessary additional expenses may be avoided by correcting the petition to the proper form.

Need an attorney
The following information is missing:
Actual address of property
Zoning
Acreage
Plats (need 12, only --- submitted)
200 scale zoning map with property outlined
Election district
Councilmanic district
BCZR section information and/or wording
Hardship/practical difficulty information
Owner's signature (need minimum 1 original signature) and/or address and/or telephone number
Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address
Signature (need minimum 1 original signature) and/or title of person signing for legal owner/contract purchaser
Power of attorney or authorization for person signing for legal owner and/or contract purchaser
Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number
Notary Public's section is incomplete and/or incorrect and/or commission has expired

PET-FLAG (TXTSOPH)
11/17/93

TO: PUBLISHER PUBLISHING COMPANY
July 14, 1994 Issue - Jeffersonian

Please forward billing to:
Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204
321-9500

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-531-A (Item 516)
5701 Edwards Lane
6/5 Edwards Avenue, 243.5 feet N of c/l Gordon Road
3rd Election District - 2nd Councilmanic District
Petitioner(s): Martin's, Inc.
HEARING: TUESDAY, AUGUST 2, 1994 at 9:00 a.m. in Rm. 118 Old Courthouse

Variance to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-531-A (Item 516)
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Variance to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.

Arnold Jahn
Director

cc: Martin Resnick
Morgan C. Kelly
Julius W. Lichter, Esquire

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

7/19/94 - CORRECTED COPY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or
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Variance to permit 5-foot side yards, 50-foot lot width, and 7,072 square feet of area in lieu of 10-foot minimum side yard and a total of 25 feet for both side yards, 70-foot lot width and 10,000-square foot area.

Arnold Jahn
Director

cc: Martin Resnick
Morgan C. Kelly
Julius W. Lichter, Esquire
Joseph G. Suddert

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
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(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3353.

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

July 22, 1994

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 94-531-A, Item No. 516
Petition for Variance
Petitioner: Martin's, Inc.

Dear Mr. Lichter:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above-referenced petition, which was accepted for filing on June 29, 1994 and scheduled for a hearing accordingly. Any attached comments from a reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the hearing file.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

IN RE: PETITION FOR VARIANCE
E/S Edwards Avenue, 243.5' N
of the c/l of Gordon Road
(Lot 3 of Belmont Heights)
3rd Election District
2nd Councilmanic District
Martin Resnick/Martin's, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-531-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as Lot 3 of Belmont Heights, also known as 6704 Edwards Avenue, located in the Belmont Heights subdivision in western Baltimore County. The Petition was filed by the owners of the property, Martin Resnick/Martin's Inc., through their attorney, Julius W. Lichter, Esquire. The Petitioners seek relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit side yard setbacks of 5 feet each in lieu of the minimum required 10 feet and a total side yard sum of 10 feet in lieu of the required 25 feet, a lot width of 50 feet in lieu of the required 70 feet, and a total area of 7,072 sq.ft. in lieu of the minimum required 10,000 sq.ft. for a proposed dwelling. The subject property and relief sought are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Morgan C. Kelly, Petitioner's Builder, and Julius W. Lichter, Esquire, attorney for the Petitioner. Appearing in opposition to the request were several residents of the surrounding community. These included Joseph Sweet who resides immediately next door to the subject property, Alice and Diane Zimmerman who reside on the other side of the property, and Mary Ross and Gus R. Bond, nearby property owners.

Testimony and evidence offered revealed that the subject property consists of 0.16 acres, more or less, zoned D.R. 3.5 and is presently unimproved. The Petitioner is desirous of developing the property with a single family dwelling in accordance with Petitioner's Exhibit 1. Testimony revealed that this property was acquired by the Petitioner on September 9, 1976. This is a small lot, 50 feet wide. The rear property line is not parallel to the front property line, and thus, the depth of the lot ranges from 132.1 feet to 150 feet, with a total area of 7,072 sq.ft., or .16 acres. On behalf of the Petitioner, Mr. Kelly testified that he has built several homes in this community, including Mr. Joseph Sweet's home immediately adjacent to this property. Mr. Kelly became aware of Mr. Resnick's ownership of the property shortly after completing Mr. Sweet's home and approached Mr. Resnick about constructing a single family dwelling on his property. The model proposed is known as the "Chandon" which is 40 feet wide and 28 feet deep as more particularly described on the elevation drawing submitted into evidence as Petitioner's Exhibit 4. The 40-foot width includes an option which features a single car garage and attached family room which are 12 feet wide each. This house is proposed to be constructed on the subject property with the option of a single car garage and family room, thereby resulting in side yard setbacks of 5 feet on each side. Mr. Kelly testified that, in his opinion, the proposed construction will not be detrimental to the surrounding locale and is compatible with the neighborhood. He indicated that there are other homes in the vicinity on 50-foot wide lots and that he has built a similar model home in this community. He also testified that efforts would be made not to remove trees or otherwise disturb the existing lot any more than necessary.

As to the Protestants, they uniformly object to the proposed dwelling as they believe that the subject lot is too small. They are particularly concerned over the potential increase in storm water runoff from the property due to the size of the proposed dwelling. They also fear the loss of trees on the property which currently act as a buffer for many residents from the Holiday Inn and commercial uses located nearby. It should be noted that a Holiday Inn exists to the rear of the site on Belmont Road. Other concerns over traffic, emergency vehicle access, parking and similar issues were also raised by the Protestants.

It should first be noted that Section 304 of the B.C.Z.R. allows for construction of a single family dwelling on an undersized lot under certain conditions. Three criteria must be met in order for construction to be allowed as of right. First, the subject undersized lot must be part of a subdivision duly recorded prior to March 30, 1955, the date of the first comprehensive zoning regulations in Baltimore County. In this case, a plat of the community was submitted which demonstrates that this subdivision was recorded in 1927. Obviously, this is an older, well-established neighborhood. Thus, in view of this recorded plat, the Petitioner satisfies the first prong of Section 304. The second criteria to be met is that the property owner can own no adjacent lands. Mr. Resnick also meets this test in that Mr. Sweet owns the property on one side and the Zimmermans own the property on the other side. The third criteria under Section 304 requires that all other height and area regulations can be met. In this instance, Mr. Resnick fails to satisfy the test. That is, by virtue of the fact that a variance to side yard setback requirements is necessary, it is clear that he does not meet all height and area requirements within the B.C.Z.R. Since he fails to meet all three of those tests, Mr. Resnick

cannot develop the property as of right, and thus, the requested variances are necessary.

Although development of the property as of right pursuant to Section 304 is not allowed, the evaluation of the site in accordance with those standards is significant. As noted above, the property is zoned D.R. 3.5, a residential classification. Any property owner has the right to develop this property in accordance with the permitted uses thereon. This is not a publicly owned parcel which must be maintained for the benefit of other property owners in the neighborhood. Thus, the neighbors have no right to expect that this property should be maintained and utilized only for their Benefit. Mr. Resnick's proposed use of the property is clearly permitted, just as Mr. Sweet was able to develop his property with a residential dwelling less than one year ago.

Furthermore, an evaluation of the variances requested must be made in accordance with the standards set forth in Section 307 of the B.C.Z.R. Therein, the Petitioner must show that he would suffer a practical difficulty if strict adherence to the regulations were required, that no detriment would be suffered by the surrounding community if the variance relief is granted, and that the relief granted is within the spirit and intent of the regulations. Surely the practical difficulty test is met in this instance. If strict adherence to the regulations were required, residential development would be impractical. Furthermore, I am convinced that a granting of the variances is within the spirit and intent of the regulations and can be accomplished without detriment to the surrounding locale.

However, the Petitioner must also show that the variance requested is the minimum relief which must be sought. On this count, the Peti-

tioner's evidence was not convincing. Although it is clear that the Petitioner needs a variance from the lot width and area requirements, I am not convinced that 5 foot side yard setbacks on either side are the minimum that can be obtained. In fact, Mr. Kelly testified that there were other housing types which might be practical on this site.

Under the circumstances, I shall approve the relief requested to permit construction on a lot with a total area of 7,072 sq.ft. in lieu of the required 10,000 sq.ft., and a width of 50 feet in lieu of the required 70 feet. As to the side yard setbacks however, I will require that the proposed dwelling be no greater than 28 feet in width. Thus, the model shown on Petitioner's Exhibit 4 may be constructed, without a garage or family room addition. In the alternative, other models less than 28 feet in width can be constructed. This will allow an additional 12 feet to be provided for the side yards. As to this additional distance, the Petitioner shall maintain at least a 15-foot side yard setback on the south side facing Mr. Sweet's home. The exhibits offered showed that the dwelling on the Sweet is the closest dwelling to the property and thus, I believe that the larger side yard should be oriented towards that dwelling. A 15-foot side yard on that side, coupled with Mr. Sweet's 21-foot existing side yard should provide a large enough distance between the two homes. Moreover, a 7-foot side yard setback should be maintained on the north side. It should be noted that the closest dwelling on that side is at least 100 feet away. Moreover, as required by Baltimore County, any dwelling constructed on this lot should face Edwards Avenue.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested should be granted, as modified above.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 5th day of August, 1994 that a variance from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 7-foot side yard setback on the north side and a 15-foot side yard setback on the south side for a total side yard sum of 22 feet in lieu of the required 25 feet, a lot width of 50 feet in lieu of the required 70 feet, and a total area of 7,072 sq.ft. in lieu of the minimum required 10,000 sq.ft. for a proposed dwelling, be approved, and as such, the Petition for Variance, as modified, is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
- 2) The size of the proposed dwelling is limited to 28 feet x 40 feet in accordance with the model depicted on Petitioner's Exhibit 4, without the option of a single car garage and family room. In lieu of this particular model, another model of less than 28 feet in width and 40 feet in depth would be permitted.
- 3) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) side yard setbacks of 5 feet each in lieu of the minimum required 10 feet and a total side yard sum of 10 feet in lieu of the required 25 feet, be and is hereby DENIED.

LES:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 112 Courthouse
400 Washington Avenue
Towson, MD 21204

August 5, 1994

(410) 887-4386

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21285-5517

RE: PETITION FOR VARIANCE
E/S Edwards Avenue, 243.5' N of the c/l of Gordon Road
(Lot 3 of Belmont Heights)
3rd Election District - 2nd Councilmanic District
Martin Resnick/Martin's, Inc. - Petitioner
Case No. 94-531-A

Dear Mr. Lichter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance, as modified herein, has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Morgan Kelly
9259 Broken Timber Way, Columbia, Md. 21045

Mr. Joseph Sweet, 6702 Edwards Avenue, Baltimore, Md. 21244

Ms. Alice A. Zimmerman and Ms. Diane L. Zimmerman
6712 Edwards Avenue, Baltimore, Md. 21244

Ms. Mary Ross, 6711 Edwards Avenue, Baltimore, Md. 21244
Mr. Gus R. Bond, 1750 Gordon Avenue, Baltimore, Md. 21244

People's Counsel; File

Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at Belmont Heights Subdivision
Lot #3 W. P. C. #7 Part 1-35
which is presently zoned DR 3.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3c.1 to permit 5' foot side yards, 50' lot width; 7072 sq. feet of area (See attached undersized lot recommendation) in lieu of 10' min. side yard and a total of 25' for both side yards. 70' lot width & 10000 sq. foot area. Per Sec. 304, B.C.Z.R.

- of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate headsip or practical difficulty)
1. Dr. 3.5 zoning require 70' frontage, 10' min. for one side yard & 25' total for both.
 2. Lot #3 is 50' across the front; ~~4'-0" min. side yard~~ - proposed 5'.
 3. I would like to build a single family house on my lot, of a size typical of the neighborhood.
 4. The houses in the neighborhood are all about the width of the proposed house.

*Footnote: The house next door & one other in this block are constructed on 50' lots. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessor:
(Type or Print Name)
Signature
Address
City State Zipcode

Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City State Zipcode

Legal Owner(s):
(Type or Print Name)
Signature
Address
City State Zipcode

Mr. Martin Resnick / Martin's Inc.
Signature
Address
City State Zipcode

Mr. Morgan C. Kelly
9259 Broken Timber Way (410) 997-1975
Columbia, MD 21045
Phone No.

ESTIMATED LENGTH OF HEARING
Uninterrupted for Hearing
All the following dates
REVIEWED BY: 5/12 DATE: 6-29-94